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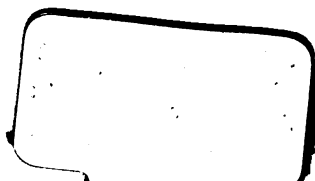
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A

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Designed for Professional Use

AND SUITED TO

THE EMERGENCIES OF ACTUAL PRACTICE.

WITH NOTES

AND

A TABLE OF STAMP DUTIES.

BY

THOMAS WILKINSON, ESQ.,

FORMERLY OF LIVERPOOL, SOLICITOR OF THE SUPREME COURT, AND
CLERK TO THE JUSTICES FOR THE BOROUGH AND COUNTY OF
NEWCASTLE-UPON-TYNE.

*Parchemins inventés pour faire souvenir ou pour convaincre
les hommes de leur parole.—LA BRUYÈRE.*

THIRD EDITION, RE-EDITED AND ENLARGED

LONDON:

HORACE COX,

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1881.



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Advertisement to the Third Edition.

IN the preparation of this Edition for the press I have spared no pains to make the work increasingly useful.

The text throughout has been carefully revised ; obsolete matter expunged, and alterations in type and arrangement everywhere effected. Notably, several new and, I hope, serviceable forms have been inserted.

The later Case-law, as well as the provisions of recent Statutes, where relevant to the subject matter, will be found to be incorporated with, or cited in the various notes.

With such emendations I am encouraged to believe that the volume may, at least in the *minutiae* of drafting, facilitate the Practitioner's labours while benefiting, in a greater degree, the Conveyancing tyro for whom the publication was primarily intended.

T. W.

Central Police Court, Newcastle-upon-Tyne,
May 28th, 1881.

Extract from the Preface to the First Edition.

THIS work originated in an earnest desire to furnish the Profession with a collection of Precedents in the by-paths of Conveyancing, which might be found useful when time or expense (or both) prevents the employment of more formal and elaborate instruments, or the occasion merely demands a simple form not found in larger and more learned volumes.

In the execution of this intention, it was suggested that some Precedents, in strictness formal, elaborate, and costly, might, from their peculiar character or provisions, be inserted without any great detriment to my design, while adding considerably to the completeness of the work and its usefulness in practice. In deference to which suggestion must be attributed such forms found herein as border the great highway of property-alienation.

To those students articulated in offices where the practice is of a miscellaneous or kaleidoscopic rather than of a specific or conservative character (and such are "legion") I venture to hope some forms will be of considerable assistance. It is sufficiently perplexing to peruse in Davidson or Prideaux strict settlements with their elaborate provisions for jointure, pin-money, portions, and

the complicated machinery of remainders and cross-remainders, and to find in *actual* practice that your prosaic client wishes *his* settlement to comprise shares in a barge or a building society, a life policy, some furniture, and a renewable leasehold, without having altogether to rely upon one's unaided efforts to frame so heterogeneous a document ; yet in every-day life perhaps the family estates are the exception, and the *very* mixed personalty the rule !

Law Association Buildings, Liverpool,
March 28th, 1870.

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Addendum.

Page 180, note (a), add—"The *Gazette* authorities have now arranged to dispense with the declaration of identity in those cases where the notice of dissolution is attested by a country solicitor whose name appears in the current Law List."

EVERY-DAY PRECEDENTS

IN

CONVEYANCING.

Acknowledgments.

1. *Acknowledgment by a Mortgagee of the Receipt of Title Deeds.* **Precedent 1.**

A SCHEDULE of Title Deeds and documents relating to Receipt for title deeds.
hold hereditaments situate at _____, in the
county of _____, belonging to A.B., of &c. [*mortgagor*],
and mortgaged by him to me for securing £ _____ and
interest.

[Here insert the dates and descriptions of and the parties to the various title deeds and documents in chronological order.]

I HEREBY ACKNOWLEDGE that I hold the above-mentioned deeds and documents as mortgagee, (a) and undertake to

(a) A mortgagee is not bound to produce his mortgage deed, or, indeed, any of the deeds in his possession, to the mortgagor, or any person claiming under him, until payment of the principal and interest due and his costs, though the application be made *bonâ fide* only to obtain information with a view to paying off the mortgage: (Smith's Man. of Eq. 12th ed., 330.)

DATED the day of 18 .
C.D. [*mortgagee*].

2. Acknowledgment of Title.

Acknowledgment of title.

DATED the day of 18 .
C.D. [occupier].

3. Acknowledgment of a Statute-barred Debt.(b)

Acknowledgment of a statute-barred debt.

I HEREBY ACKNOWLEDGE that I am indebted to you in the sum of £ , with [*if so*] interest thereon after the rate of £ per cent. per annum, for &c. [*here*

(b) See 9 Geo. 4, c. 14, which enacts that no acknowledgment or promise *by words only* shall be deemed sufficient, and that the acknowledgment must be *in writing*, signed by the party chargeable. As to the construction of which statute, see *Rowe v. Hopwood* (38 L. J. Q. B. 1; L. Rep. 4 Q. B. 1). By 19 & 20 Vict. c. 97, s. 13, however, an acknowledgment is good if signed by the duly authorised agent of the principal. As to ratification of an infant's contract, see 37 & 38 Vict. c. 62.

insert consideration]. AND I UNDERTAKE to pay the same on request. (a)

DATED the day of 18 .
C.D. [*debtor*].

4. *Acknowledgment that an Irrevocable Voluntary Settlement has been Explained.* (Written on the fold of the draft and signed by the client.) (b) Precedent 4.

I HEREBY ACKNOWLEDGE that the deed, of which this is the draft, has been carefully read over to me by Mr. W., who has fully explained the provisions of the same, which are according to my wishes. I understand that the said deed is irrevocable, and I do not desire to reserve to myself any power of revoking or altering the trusts of such deed. Acknowledgment that settlement explained.

Dated the day of 18 .
A.B. [*settlor*].

5. *Acknowledgment that a Surrender of Copy-holds to Mortgagees never Acknowledged.* (Endorsed on the engrossment of the covenant to surrender.) Precedent 5.

We, the within-named A.B. and C.D. [*mortgagees*] hereby admit and acknowledge that the surrender in the within written indenture mentioned as prepared and engrossed was not in fact ever acknowledged, and that Acknowledgment that surrender not acknowledged.

(a) This latter clause is not absolutely necessary if the acknowledgment is so distinct that a promise to pay may be reasonably inferred: (*Collis v. Stack*, 1 H. & N. 605; 26 L. J. Ex. 138.)

(b) See on this subject *Hall v. Hall* (42 L. J. Ch. 444; L. Rep. 8 Ch. 430); also Smith's *Man. of Eq.* 12th ed., 117, as to the duty of the solicitor to the settlor, or for both parties in the matter of such settlements.

all the principal moneys and interests intended to have been secured by such surrender have been fully paid and discharged.

Dated the day of 18 .
A.B.
C.D.

**Precedent
6.**

6. Acknowledgment by a Mortgagor that he is Tenant to Mortgagee.

To A.B., of &c. [*mortgagee*].

**Attornment
by a mort-
gagor.**

I HEREBY ATTORN and become tenant to you of ALL THAT &c. [*parcels*], with the appurtenances thereunto belonging, at the yearly rent of £ , payable in advance, for the purpose of enabling you forthwith to obtain a judgment in the Queen's Bench Division of the High Court of Justice in an action of ejectment, to be commenced by you as landlord against me as tenant. AND I UNDERTAKE to suffer judgment to go by default in the said action, and that I will not at any time seek or attempt to set aside the said judgment or any writ of possession or other execution to be issued thereunder.

DATED the day of 18 .
C.D. [*mortgagor*].

Agreements.

**Precedent
7.**

7. *Agreement to let a Dwelling House by the Month.*

Parties.
Witnesseth.

AN AGREEMENT made, &c., BETWEEN A.B., of &c. [*landlord*], of the one part and C.D. of &c. [*tenant*], of the other part. WHEREBY the said landlord lets, and the said tenant takes, the DWELLING HOUSE. No. in

Parcels.

Street, in the parish of _____, from the date _____

hereof, as tenant from month to month, at the rent of £ , per calendar month, payable always in advance, Rent. clear of all deductions except property tax. AND IT IS AGREED that the said tenant shall make good all damage done to the windows, doors, shutters, and other fixtures belonging to the said dwelling house while in his occupation (reasonable wear and tear and accidents through fire and tempest only excepted). AND THAT the tenancy hereby created shall be determinable at one calendar month's notice in writing by either landlord or tenant. AS WITNESS, &c.

8. *Agreement to let a Cellar by the Year.*

Precedent
8.

AN AGREEMENT made, &c., BETWEEN A.B., of &c. [landlord], of the one part, and C.D., of &c. [tenant], of the other part. THE said A.B. hereby lets, and the said C.D. takes, THE CELLAR, No. , in Street, from the day of 18 , as tenant from year to year, at the rent of £ per year, payable quarterly in advance, the said C.D. paying all rates, taxes and assessments in respect thereof, except property tax, and making good all damage done to the said cellar during his tenancy (reasonable wear and tear and accidents from fire excepted)(a). AS WITNESS, &c.

Parties.
Witnesseth.
Parcels.

Tenant to
make good
damage.

9. *Agreement to let a Furnished House by the Month.*

Precedent
9.

AN AGREEMENT made, &c., BETWEEN A.B. of &c. [landlord], of the one part, and C.D. of &c. [tenant], of the

Parties.

(a) If the cellar is likely to be used for the purpose of storing combustible or explosive goods, it would be prudent to limit the exception to "wear and tear," unless additional rent be paid for the risk.

Witnesseth.	other part. WITNESSETH that the said A.B. hereby lets,
Parcels.	and the said C.D. takes, THE DWELLING HOUSE No. , in Terrace, with the appurtenances and the furniture, articles, and effects therein, which are specified in a schedule or inventory thereof now signed by the said parties hereto, from the day of , as tenant from lunar month to lunar month, at the
Rent.	rent of £ per week, payable every lunar month in advance, the first of the said monthly payments being due on the signing hereof, the said A.B. paying all rates and taxes in respect of the said dwelling house except the gas and water rates. AND IT IS AGREED that the said
Tenant to deliver up premises.	C.D. shall deliver up the said premises and furniture, articles, and effects at the expiration of the said tenancy in as good a condition as the same are now in (reason- able wear and tear and damage by fire and tempest only excepted), and shall and will duly replace and repair all such parts thereof as may be destroyed or injured by the said C.D., his family or servants, during his occupation of the said premises. AND THAT the tenancy hereby
Notice to determine.	created shall be determinable at one lunar month's notice by either the said A.B. or C.D. AND THAT if any
Proviso for re-entry.	monthly payment of the said rent shall be in arrear and unpaid for days after the same shall have accrued due, it shall be lawful for the said A.B. to re-enter upon the said premises and to use and pursue all such ways and means and adopt all such measures as may be deemed necessary or expedient for the purpose of effect- ing such entry by force or otherwise, as occasion may require, and without the necessity of commencing any action of ejectment or other action whatsoever, to expel and remove the said C.D. and all other occupiers of the said premises, and his and their goods, chattels, and effects, without being liable for any loss, costs, damages or expenses, action or suit, for so doing, and the said premises to have again and enjoy as if these presents

had not been made ; and thereupon this agreement shall cease and determine, but such entry shall not impeach, defeat, or prejudice any claim or right of action or other remedy for arrears of rent which the said A.B. might by law have had if no such entry had been made, anything herein contained to the contrary notwithstanding. As WITNESS, &c.

10. *Agreement to let an Office by the Year.*

Precedent

10.

MEMORANDUM OF AGREEMENT made, &c., WHEREBY the undersigned A.B. [*landlord*] agrees to let, and the undersigned C.D. [*tenant*] agrees to take, THE DOUBLE OFFICE belonging to the said A.B., and now in the occupation of the said C.D., in the building at the corner of Street and Arcade, being at the back of shop No. in Street, , aforesaid, at the yearly rent of £ , payable quarterly, on the day of , the day of , the day of , and the day of in every year, the first quarter's rent being payable on the day of next. THE said C.D. is to pay all rates and taxes payable in respect of the premises during his tenancy, and to keep the said premises in good and tenantable order and repair, and in such good order and repair to leave them at the end of his tenancy (reasonable wear and tear and damage from inevitable accident excepted), and not to make any alteration in the said premises during his tenancy without the previous written consent of the said A.B. nor to assign, underlet, or otherwise part with the possession of the said premises, or any part thereof, without such consent as aforesaid. AND IT IS AGREED that the tenancy of the said C.D. may be determined at the end of any of the before-mentioned quarter days by either party giving to the other three months' previous written notice of his inten-

Parties.
Witnesseth.

Parcels.

Tenant to
pay rates and
taxes.

To repair.

Not to make
alterations.

Nor assign.

Notice to
determine.

Proviso for
re-entry.

tion to determine the same. AND THAT if the said C.D. shall during his tenancy assign, underlet, or otherwise part with the possession of the said premises, or any part thereof, to any person or persons without such consent as aforesaid; or if the said C.D. shall become bankrupt, or execute any deed of assignment for the benefit of, or compound with, his creditors, or shall have any execution issued against him, then, on any of such events occurring, the tenancy hereby created in the said premises shall wholly and absolutely cease and be at an end; and the said A.B. shall have full right and power to re-enter and take possession of the said premises, and therefrom to remove and put out the said C.D., or any person or persons claiming through him. AS WITNESS, &c.

Precedent 11. *Agreement to let a Field by the Year with
11. Special Conditions as to the Mode of User.*

Parties.

Witnesseth.

AN AGREEMENT made, &c., BETWEEN A.B., of &c. [landlord], of the one part, and C.D., of &c. [tenant], of the other part. WHEREBY the said parties hereto agree the one with the other of them, as follows:—

Parcels.

Rent.

Exception.

1. The said A.B. shall let and the said C.D. shall take from the day of 18 , as yearly tenant, the field or piece of ground belonging to the said A.B., situate at and leading out of Lane, in the country of , at the annual rent of £ clear of all deductions (except property tax), payable quarterly, in advance, the first of such payments being due on the signing hereof, except and always reserving unto the said A.B., his heirs, assigns, and under-tenants, such portion of the said field as is at present fenced off and used as a kitchen garden

- by the occupier of Villa, and the henneries and outhouses belonging thereto.
2. The said C.D. shall, during the whole of his ^{Tenant t} tenancy, at his own expense, repair and keep in ^{repair, &c.} repair the gates, fences, and hedges of the said field, and empty, cleanse, and scour the drains and ditches thereof, and at all times exclusively use the gateway at the side of the said field, leading out of Road, for the purpose of ingress and egress, both for cattle, servants, and others, and shall forthwith securely fasten up, or keep padlocked, the gate leading up out of Lane, aforesaid.
 3. The said C.D. shall not assign his present tenancy, ^{Not to assign.} nor sub-let the said field, or any part thereof, to any person or persons, without the previous written consent of the said A.B., his heirs or assigns.
 4. If any quarterly payment of the said rent shall be ^{Power of re-} unpaid for the space of days after the ^{entry.} same shall have accrued due, or if the said C.D. shall fail to repair, and keep in repair, the said gates, fences, and hedges, or any of them, or neglect to empty, cleanse, and scour the said drains or ditches, or use any gateway other than as aforesaid, or shall assign or sublet without written consent, or shall become bankrupt, then on the occurrence of any such event the tenancy hereby created shall be at an end, and the said A.B., his heirs and assigns, shall have full right and power to re-enter and take possession of the said field, and therefrom to put out the said C.D., his chattels and servants.
 5. The said C.D. shall forthwith fence off, or otherwise sufficiently protect against injury, the whole ^{Tenant to} of the said henneries and outhouses, and shall ^{fence off} ^{excepted} ^{parts of} ^{premises.}

from time to time make good and repair any damage done by him to the same during the continuance of his tenancy (a) AS WITNESS, &c.

Precedent 12. *12. Agreement for the Hire of a Steam Engine and Apparatus, with the Option of Purchase.*

Parties. AN AGREEMENT made, &c., BETWEEN A.B., of &c. [owner], of the one part, and C.D., of &c. [hirer], of the other part. **Witnesseth.** that the said parties do hereby mutually agree, the one with the other of them, as follows:—

Parcels. 1. The said A.B. hereby lets, and the said C.D. takes, on hire (with the option of purchase as herein-after mentioned), the horse power portable steam engine, benches, and apparatus in connection therewith for [describe user] belonging to the said A.B., and now being in the yard numbered in Street

aforesaid, from the day of 18, for the term of months thence next ensuing, at the rent of £ per month, the first payment to be made on the day of next, and the remaining payments on the first day of each succeeding month during the said term.

Hirer not to misuse engine. 2. The said C.D. shall not use the said steam engine for any purpose other than that of , and shall use the same engine, and the benches and apparatus belonging thereto, in a skilful and proper manner, and shall not remove from the

(a) If the field is of less extent than two acres the provisions of the "Agricultural Holdings Act, 1875" (38 & 39 Vict. c. 92), will not by sect. 58 apply, if, however, it exceeds two acres the Act will apply unless wholly or partly negatived as provided for by s. 56.

said yard the same, or any part thereof, without the previous consent in writing of the said A.B.; and the said C.D. shall at his own expense keep the same and every part thereof in good working order and condition, and effect all necessary repairs during the said term; and in case he shall make default in so doing, or in paying the said monthly rent, or any part thereof, when due, the said A.B. shall thereupon be at liberty forthwith, and without any notice whatever, to resume and keep possession of the said engine, benches, and apparatus, and to determine and put an end to this agreement, and all moneys that may have been paid by the said C.D. to the said A.B. previously thereto shall be retained by him for his own absolute use.

To keep same in repair.

Proviso in case of default.

3. In the event of the said C.D. paying in cash, on or before the expiration of such term of months, to the said A.B., his executors, administrators, or assigns, such a sum of money as shall, with the rent then paid, amount in the whole to £ together with interest thereon, after the rate of £ per cent. per annum, from the said day of 18 , then the said C.D. shall be entitled to become the purchaser of the said steam engine, benches, and apparatus at that price; but in case the said C.D. shall not, within the said period of months, declare by notice in writing to the said A.B. his intention to purchase the same, and shall actually pay to him in cash the said sum of £ and interest as aforesaid, or such part thereof as shall not have been paid previously to giving the said notice, then the option of purchase by the said C.D. is to be at an end, and the said A.B. is to be at full liberty to take

Terms on which hirer to become purchaser.

Option of purchasing to determine in certain events.

And owner
to re-take
possession.

possession and hold and dispose of the said steam engine, benches, and apparatus, and to retain such rent and monthly payments paid up to that time for his own absolute benefit, without any claim or interference by or on the part of the said C.D.; and the said C.D. shall make good all damage done to the said steam engine, benches, and apparatus, or any part or parts thereof, while in his use or control (reasonable wear and tear only excepted), and in good order and repair deliver up the same to the said A.B., his executors, administrators, or assigns, at the expiration of the said term. AS WITNESS, &c.

Precedent 13. *Agreement to let a House and Shop by the Year, the Rent being Payable in Advance, and the Tenant to have the Option of purchasing the Landlord's Lease.*

Parties.	AN AGREEMENT made, &c., BETWEEN A.B., of &c. [<i>landlord</i>], of the one part, and C.D., of &c. [<i>tenant</i>], of the
Witnesseth.	other part. WITNESSETH that the said A.B. hereby agrees to let, and the said C.D. to take, from the date
Parcels.	hereof, and occupy as tenant from year to year, ALL THAT messuage or dwelling house and shop, with the appurtenances thereto belonging, situate and being No. , in
	Square, at the clear yearly rent of
Rent.	£ , payable quarterly in advance, on every the
	day of , the day of ,
	the day of , and the day of ,
	in each year, the first of such payments to be made on the date hereof, and every subsequent quarterly payment to become due and payable, and be recoverable in like manner, in advance on the first day of every succeeding quarter. IT IS AGREED that the said C.D.

shall pay and discharge all taxes and outgoings chargeable by law upon the said premises (except the property tax). AND THAT he shall not assign, underlet, or in any manner part with the possession of the said premises, or any part thereof, to any person or persons without the consent in writing of the said A.B., and shall at his own cost maintain and keep the glass in the windows, the window frames and shutters, and the fastenings, handles, and ornaments of doors, windows, and window shutters, the boards of the floors, the inside doors, and all the interior of the said premises, in good order and repair, and in such order and repair will, at the determination of the said tenancy, peaceably and quietly deliver up the same to the said A.B. (reasonable wear and tear, and damage by fire, or inevitable accident excepted), and shall duly replace and make good all such parts of the premises as may have been changed, altered, injured, or destroyed during the tenancy. AND THAT if the said C.D. shall remove any of the fixtures from the said premises without the consent in writing of the said A.B., or shall not duly observe, perform, and keep the agreements on his part herein contained, or if at any time the said premises shall be left unoccupied for the space of days, or if any payment of the said rent shall be in arrear and unpaid for the space of days after the same shall be payable, or if the peaceable possession of the said premises shall not be delivered to the said A.B. immediately on the determination of the tenancy by notice to quit, it shall be lawful for the said A.B. to re-enter upon the said premises, &c. [*As in Precedent 9, ante*, p. 6]. AND the said A.B. agrees to keep the roofs, main walls, and main timbers of the said premises in good and tenantable repair and condition during the said tenancy. AND THAT in case the said C.D. shall desire to purchase his leasehold interest in the said premises at the sum of £ , and shall at any time during the

Tenant to
pay taxes.
Not to assign.

To repair.

And deliver
up.

Proviso for
re-entry.

Landlord to
keep roofs in
repair.

Option to
purchase.

tenancy give to him, his executors, administrators, or assigns, notice in writing of his desire, then and in such case the said C.D. shall be entitled to purchase the same for the then residue of a term of years created by an indenture of lease bearing date, &c., and made between Y.Z., of &c., of the one part, and the said A.B. of the other part; and the said A.B. shall, upon payment of the said sum of £ and of all rent then accrued due under or by virtue of the agreements herein contained, execute a proper assignment of the said lease to the said C.D. at his expense; but the said C.D. shall not be entitled to investigate or make any objection in respect of the title of the said Y.Z. to grant the said lease, nor to call for any earlier title than the same indenture. IN WITNESS, &c.

Title.

Precedent 14. *14. Agreement to let a Slaughter House by the Year.*

To A.B. of, &c. [*tenant*].

Agreement to let a slaughter house. I AGREE to let you THE SLAUGHTER HOUSE situate in Street, and numbered therein, within the parish of , in the county of , from the day of instant, as yearly tenant, at the annual rent of £ , payable quarterly, on Lady, Midsummer, Michaelmas, and Christmas days in each year, the first payment to be made on Lady-day next. AND I ALSO AGREE to keep all outside parts of the said slaughter house in tenantable repair.

DATED the day of 18 .
C.D. [*landlord*].

Precedent 15. *15. Agreement to let a Theatre for a Term, Surety Guaranteeing Rent, &c.*

Parties. AN AGREEMENT made, &c., BETWEEN the Theatre Company (Limited) of the first part, C.D., of &c. [*tenant*],

of the second part, and E.F., of &c. [*surety*], of the third part. WITNESSETH as follows :—

Witnesseth.

1. The said Company agree to let, and the said C.D. ^{Parcels.} to take, that part of the Company's property known as the Theatre Royal, being No. in Square, within the parish of , in aforesaid, with the scenery, scenic accessories, lime light apparatus, mechanical appliances and machinery, stage furniture, wardrobe, properties, and paraphernalia belonging thereto, and also the music scores and orchestral arrangements in connection therewith, but re- ^{Reservation.} serving to the said Company the refreshment saloons and offices in the said theatre, from the day of 18 , until the day of 18 , both inclusive, at the rent of Rent. £ payable by equal weekly instalments of £ on every Monday in advance during the tenancy, the first of such payments to be made on the said day of 18 . And in ^{Royalty.} addition to each weekly instalment the said C.D. shall pay to the said Company one equal th part of the gross nightly receipts until the said rent of £ shall be fully discharged, whereon the payment of the said weekly instalment and nightly receipts shall cease; but the said C.D. shall, as well before as after the said occurrence, pay all gas, rates, servants' wages, and expenses of whatsoever kind chargeable in respect of the premises during his tenancy.
2. Each of them the said C.D. and E.F. agrees with ^{Guarantee of} the said Company that the said C.D. shall duly ^{surety.} pay the said rent on the days and in manner hereinbefore mentioned, and shall nightly pay over to the said Company on and after the said day of 18 , one equal th part of

the said gross nightly receipts, and pay all gas rates, servants' wages, and expenses in manner aforesaid.

Tenant to
conduct per-
formances in
an orderly
manner.

3. The said C.D. shall conduct all entertainments to be given within the said theatre in a chaste, proper, and orderly manner, on lawful days, and at seasonable times, and in every respect in accordance with the rules and regulations made, or to be made, for the conduct and government of theatres, whether local or universal in their application or extent, so as to afford no ground whatever for the infliction of fines or penalties, or for prejudicing any licence for the time being attached to the premises,^(a) and shall not reduce the prices of admission below the prices already agreed upon between the said Company and the said C.D., that is to say:—

Prices.

For each private box on the first tier, £
 For each private box on the second tier, £
 For each private box on the third tier, £
 For each admission to the Stalls, *s.*; or, if
 after 8.45 p.m., *s.* each person.
 For each admission to the Dress Circle, *s.*;
 or, if after 8.45 p.m., *s.* each person.
 For each admission to the Side Boxes, *s.*;
 or, if after 8.45 p.m., *s.* each person.
 For each admission to the Pit, *s.*; or, if
 after 8.45 p.m., *s.* each person.
 For each admission to the Gallery, *s.* (no
 half price).

(a) The licence must be granted to the *actual and responsible manager* of the theatre, *i.e.*, of the building, not of the "star" company. See the Act for regulating Theatres (6 & 7 Vict. c. 68). The 5 & 6 Will. 4, c. 30, s. 7, authorises the Excise to grant retail licences to the proprietor to sell beer, spirits and wine in such licensed theatres without the production of the usual justices' certificate, and this privilege is reserved by 35 & 36 Vict. c. 94, s. 72.

4. The said C.D. shall not make any alterations what-
ever in the premises, nor assign, sublet, or part
with the same, or any part thereof, without the
written consent of the secretary of the said
Company, nor commit or suffer any destruction or
damage to the premises, but will keep and main-
tain the same in good and tenantable repair, and
will permit the directors and secretary of the said
Company, or any of them, to enter upon and go
through the premises at their pleasure, without
obstruction or denial, and that he, the said C.D.,
will reinstate and make good all damage done to
the premises while in his occupation or use, and
at the end of his tenancy deliver up the same in
such good order and condition as the same are now
in (reasonable wear and tear, and damage by fire,
excepted). Tenant not to
assign, &c.

5. That in case the said rent or the said th Proviso for
re-entry.
part of the nightly receipts respectively, or any
part thereof, shall be unpaid for the space of
days after any day hereinbefore appointed
for payment of any instalment or share (whether
demanded or not), or if the said C.D. shall be
adjudged bankrupt or execute any deed with or
for the benefit of his creditors, or liquidate or
compound with his creditors within the meaning
of any Act now or hereafter for the time being in
force in England for the relief of persons in
insolvent circumstances, or if any execution shall
be issued against him, or if he shall not perform
and observe all and singular the agreements herein
contained and on his part to be performed and
observed, or if at any time the premises shall be
closed and no public performance take place for
the space of days (not being days in
Passion Week, Holidays, or days set apart for

Public Thanksgiving), then and in any of such cases, notwithstanding the waiver of any previous right of re-entry, it shall be lawful for the said Company or any of their officers, and the said C.D. and E.F. hereby severally empowers and licenses them, into and upon the premises or any part thereof in the name of the whole to re-enter and to use and pursue all such ways or means and adopt all such measures as may be necessary or may be deemed expedient for effecting such entry, by force or otherwise, as occasion may require, without the necessity of taking proceedings in ejectment or other proceedings whatever, and to put out the said C.D. and all other occupiers of the same premises, and his and their goods, chattels, furniture, properties, and effects, without liability for any loss, cost, damages or expenses, action or suit for so doing, and the said premises to have again, repossess, and enjoy as if this agreement had not been made, and thereupon these presents shall cease; nevertheless such re-entry shall not defeat or prejudice any right of action or remedy for arrears of rent or share of receipts, or for the breach of any agreement, which the said Company might have had against the said C.D. and E.F., or either of them, if no such re-entry had been made.

Limitation
of surety's
liability.

6. That the liability of the said E.F. under these presents shall not at any one time exceed the sum of £ . As WITNESS, &c. (a)

(a) In agreements relating to the occupation of theatres, or in fact of any place of public amusement, it is highly desirable to define the terms of the tenancy as clearly and precisely as possible. In small provincial towns, the lessees of theatres are generally speculators, whose troupes and properties are here to-day and gone to-morrow, and who leave confiding lessors, too often, no rent, and a large gas bill!

16. *Agreement for the Sale of a Dwelling House in Course of Erection, and the Benefit of an Agreement for a Lease.*(b) Precedent
16.

RECEIVED from A.B., of, &c. [*purchaser*] the sum of Agreement for the sale of a leasehold dwelling house in course of erection.
£ , as a deposit and in part payment of the sum
of £ , the purchase-money of A DWELLING HOUSE
situate on the side of a new street called, or
about to be called Street, in , sold by
me to him on the following terms:—

The tenure is leasehold under an agreement for a lease
for years, from the day of , 18 ,
at the yearly rent of £ .

The lease to be granted by the lessor direct to the said
A.B.

The dwelling house to be finished in all respects,
externally and internally, as the one adjoining, occupied
by , and to be ready for occupation on or before
the day of 18 .

The balance of the purchase-money to be paid when
possession of the house is given.

The said A.B. to bear the expense of lease and counter-
part from the lessor, and to be satisfied with the latter's
title without investigation, on my procuring the grant of
the said lease.

In case of default in payment of the balance of pur-
chase-money as above-mentioned, the deposit to be for-
feited to me as liquidated damages, and this agreement
to be at an end without any claim by either party against
the other, and the property to be resumed by me.

DATED the day of 18 .
C.D. [*vendor*].

I AGREE to all the above terms.

A.B. [*purchaser*].

(b) Both this and the two succeeding precedents, though osten-
sibly receipts for money, are really agreements, and must be stamped
as such.

Precedent 17. *Agreement for the Sale of a Leasehold Dwelling House in the Occupation of a Tenant.*
17.

Agreement for the sale of a leasehold house in the occupation of a tenant.

RECEIVED on the day of 18 , from A.B., of &c. [*purchaser*] the sum of £ , being a deposit of £ per cent. on the purchase-money or sum of £ agreed upon between us for THE DWELLING HOUSE and premises, No. , in Terrace , now in the occupation of as tenant, at £ per annum, sold by me to the said C.D. on the following terms, and subject to these conditions, viz:—

The said dwelling house and premises are held under a lease granted by the Corporation of for a term of years from the day of 18 , at a peppercorn rent.

An abstract of such lease to be furnished, and the assignment thereof to be perused and executed by me at my own expense.

The assignment of the lease to be prepared by , at the expense of the said A.B.

The balance of the purchase-money, to be paid within days from this date, at which time the said A.B. is to be entitled to the possession or the rents and profits of the premises, and to have the said assignment delivered to him.

C.D. [*vendor*].

I AGREE to purchase the said dwelling house and premises on the above terms, and subject to the above conditions.

A.B. [*purchaser*].

Precedent 18. *Agreement for the Sale of a Smallware Business, Stock-in-Trade, Fixtures, and Effects.*
18.

Parties.

AN AGREEMENT made, &c., BETWEEN A.B., of &c., [*vendor*], of the one part and C.D., of &c. [*purchaser*], of the other

part as follows:—THE said A.B. agrees to sell to the Agreement.
said C.D., and the said C.D. agrees to purchase from
the said A.B. ALL AND SINGULAR the stock-in-trade and Parcels.
effects (consisting of toys, haberdashery, jewellery, hard-
ware, matches, blacking, and other fancy and miscel-
laneous articles) now being in and upon the premises,

number Street aforesaid, at present in the occu-
pation of the said A.B. as tenant, for the price or sum of
£ THE said sum of £ has been agreed

Considera-
tion.

upon as the total value of the said goods, fixtures, and
effects, and is to be paid on or before the signing hereof,
and upon such payment being made the said C.D. is to
be at liberty forthwith, or as soon as may be convenient
to him, to remove and clear and carry away the whole or
any part of the said goods, fixtures, and effects as he
may think fit. THE said A.B. undertakes and agrees to

Terms of pay-
ment.

indemnify the said C.D. against any claim for rent,
taxes, or rates in respect of his said premises, and
against all or any other claims which may be made upon
or against the said goods, fixtures, and effects, or in
respect thereof, by any person or persons claiming by,
from, under, or in trust for the said A.B. THE said A.B.

Indemnity by
vendor against
rent, &c.

also undertakes and agrees to execute an assignment
or bill of sale of the said goods, fixtures, and effects to
the said C.D. whenever called upon so to do, the same to
be at the sole cost and expense of the said C.D. As
WITNESS, &c.

And to execute
further assur-
ance.

19. *Agreement for the Purchase of a Public-house* Precedent
Lease, and for Services as Barman meanwhile. 19.

RECEIVED from A.B., of &c., [*intended lessee*] £
as a deposit, and on account of the sum of £
the price of a years' lease to be granted by me
to him on such terms as may be applicable to a public-
house lease in , at the annual rental of £

Receipt of de-
posit for
, option of lease.

for the first years, and £ for the
 remaining years, of the public-house and vaults
 at the corner of Street aforesaid; such
 term of years to commence as from the day
 of , 18 . AND IT IS AGREED between us that,
 in the event of the said A.B. declining such lease (which
 he is to have the option of doing), and giving up to me
 the possession of the said premises, and all stock-in-
 trade and property belonging to me in his charge, within
 calendar months from this date, I am to return to
 him the said deposit. IT IS ALSO AGREED between us that
 the said A.B. shall enter my service as barman and
 manager of the said public-house and vaults, and shall
 faithfully and honestly discharge the duties of his situa-
 tion, and account to me for all stock-in-trade and pro-
 perty with which he may be intrusted, and pay over to
 any person I may appoint all moneys received by him
 upon my account whenever required so to do; and he
 shall receive for such service wages at the rate of
 shillings per week. AND THAT, in the event of my
 wishing to dispense with the services of the said A.B., I
 shall be at liberty to do so upon giving to him 's
 notice in writing to that effect, or paying to him 's
 wages in lieu thereof; but the said A.B. shall not be at
 liberty to determine this agreement for service, on his
 part, until after the lapse of calendar months
 from this date, unless in the meantime he shall have
 procured a tenant, to be approved of by me, in
 which case, or at the end of the said period of
 calendar months, this agreement shall cease. AND
 IT IS FURTHER AGREED that, if the said A.B. shall
 decline to accept the said lease, the said sum of £
 shall be held by me as a guaranty for the faithful dis-
 charge by the said A.B. of the duties pertaining to his
 situation, and shall be accounted for by me accordingly.
 AND the said A.B. undertakes to hold the licences for

To be returned of
 if lease de-
 clined.

Agreement for
 services as
 barman mean-
 while.

Notice to de-
 termine ser-
 vices.

Guaranty for
 performance
 of duties.

Trusts of li-
 cences.

the vending of ale, beer, wine, and spirituous liquors upon the said premises in his name, but as a trustee only for me, and to transfer the same to me, or to any person I may direct, whenever thereto required; and that the said A.B. will not commit or suffer any act or omission whereby any of the said licences may be prejudiced or become void.(a)

DATED the day of 18 .
C.D. [*intended lessor*].
A.B. [*intended lessee*].

20. *Agreement for the Sale of a Public-house Lease, Goodwill, and Fixtures.* Precedent
20.

AN AGREEMENT made, &c., BETWEEN A.B., of &c. [*vendor*], Parties.
of the one part, and C.D., of &c. [*purchaser*], of the
other part. WITNESSETH that the said A.B. agrees to Witnesseth.
sell, and the said C.D. to purchase, the leasehold, interest, Parcels.
and goodwill, with the use of the licences of him the said
A.B. in the public-house and premises No. , in
Street, , now occupied by the said A.B., and
called the “ Arms,” together with the trade
fixtures, utensils, goods, chattels, and effects particu-
larly specified in the schedule hereto. AND IT IS
MUTUALLY AGREED that the said sale and purchase shall be
upon the terms hereinafter mentioned, that is to say:—

1. The price of the said leasehold interest, licences, Consideration
for lease, &c.
goodwill, trade fixtures, utensils, goods, chattels,
and effects shall be £ , and shall be paid
as follows: £ on the signing hereof

(a) It may be questioned whether licences can legally be held in the name of another; yet, as trusts substantially framed as the above are every-day occurrences in brewers' agreements with their managers, such an undertaking has been inserted here in deference to usage.

(whereupon the said C.D. shall be entitled to the possession of the said premises, and shall thenceforth pay all rent, rates, and taxes in respect of the same, but all rent, rates, and outgoings up to that time shall be borne and paid by the said A.B.), £ further part of the said purchase-money within days from the date hereof, and £ , the balance hereof, within calendar months from the date hereof, together with interest on such sums respectively after the rate of £ per cent. per annum from the date hereof until payment.

And stock.

2. The stock-in-trade of the said A.B. now being in and about the said public-house, shall be valued by the parties hereto, or, in case of dispute or difference, by a competent person or persons to be approved of by them; and when the value thereof is ascertained and agreed upon, the said C.D. shall give his own acceptance for the amount of such valuation to the said A.B., payable days after date, and shall duly pay the same at maturity.

Vendor to
obtain lessor's
consent to the
assignment.

3. The said A.B. shall forthwith procure the consent of the lessor to assign his lease to the said C.D., and with all proper parties shall peruse, execute, and deliver to him a proper assignment of the same at his own expense, the said C.D. preparing and paying the cost in connection with the preparation of such deed and the due stamping thereof; and the said A.B. shall also sign all necessary papers for transferring all licences attached to the said public-house to the said C.D.; and in the event of the lessor refusing for any reason to consent to such assignment, the said A.B. shall repay to the said C.D. the said deposit; and any further sum or sums of money

he shall have received from him (but without interest), and shall return the said acceptance to the said C.D., who shall give up possession of the said public-house, and all other the said premises to the said A.B., and shall pay in cash for such stock as may have been consumed or disposed of by him in the meantime at the cost price thereof, and shall make good any portions of the said premises that may have been injured beyond reasonable wear and tear, whereupon this agreement shall cease.

4. The premises shall be at the risk of the said C.D. Purchaser to bear risk.
5. The said A.B. declares that he now has good right and full power to sell and assign the said lease and premises unincumbered; and that he will on request execute all deeds that may be necessary for effectually carrying into effect the terms of this agreement, but the said C.D. shall not inquire into or call for the title of the lessor of the said A.B. to grant the existing lease.^(a) Premises free from all incumbrances.
6. If the said sum of £ or £ , with interest as aforesaid, shall not be duly paid on the days and in manner before mentioned, the said deposit shall be absolutely forfeited to the said A.B., who shall be at liberty to resell the premises either by public auction or private treaty, at such time and place, subject to such conditions and in such manner as he shall think fit, and the deficiency in price (if any) arising through such resale, together with the expenses attending the same, shall be paid by the said C.D. to the said Power to resell in the event of the purchaser's default.

(a) Sub-sect. 1 of sect. 2 of the Vendor and Purchaser Act, 1874 (37 & 38 Vict. c. 78) would not appear to extend to the title to the leasehold, assuming the vendor's lessor to be himself a lessee, even although for a long term of years.

A.B., and in default thereof shall be recoverable by him as liquidated damages.

Costs to be borne equally.

7. The costs of and incidental to this agreement shall be borne by the said A.B. and C.D. in equal moieties. AS WITNESS, &c.

THE SCHEDULE referred to.

**Precedent
21.**

21. *Agreement for the Sale of Freehold Land.*

- Parties. AN AGREEMENT made, &c., BETWEEN A.B., of &c. [*vendor*], of the one part, and C.D., of &c. [*purchaser*], of the other part. WITNESSETH that the said A.B. (hereinafter called "the vendor") agrees to sell to the said C.D., and the said C.D. (hereinafter called "the purchaser")
- Witnesseth. agrees to purchase from him for the sum of £
- Consideration. per square yard the fee simple in possession of ALL, &c.
- Parcels. [*parcels*], together with the free use and enjoyment in common with others entitled thereto of the said roads and streets respectively, and together with the appurtenances to the said piece of land belonging. AND IT IS MUTUALLY AGREED between the said parties hereto as follows :
- Tenancies and restriction. 1. The property is sold subject to the existing tenancies, and [*if so*] to the following covenant on the part of the vendor contained in the conveyance of the said land to him "that, &c." [*set out restrictive covenant*].
- Deposit. 2. The purchaser shall on the signing hereof pay to the vendor the sum of £ as a deposit and in part payment of the said purchase-money, and shall pay the balance thereof on or before the day of 18, at the office of Mr. , the vendor's solicitor, at which time and place the purchase is to be completed, and the purchaser shall thereupon be entitled to the

possession of the said premises or the rents and profits thereof (the current rent being apportioned between them) and all outgoings to that time being cleared by the vendor.

3. The vendor shall within days from the date Commencement of title.
hereof at his own expense deliver to the purchaser or to Mr , his solicitor, an abstract of his title to the premises sold, commencing with indentures of lease and release dated, &c., with which deduction of title the purchaser shall be satisfied and shall not be entitled to call for the production of, or to investigate or make any objection or requisition in respect of, the prior title, whether it appear by recital, covenant for production or otherwise.
4. All recitals, statements, and implications, whether Recitals to be evidence.
relating to matters of fact or conclusions of law in any deed or writing, dated years or upwards previously to the date hereof, shall be conclusive evidence of the fact or implication so recited, stated, or implied, and the purchaser shall not be entitled to the production of any writing so recited or stated not in the vendor's possession.
5. If the purchaser shall not within days from Requisitions.
the delivery of the abstract to him or his solicitor, state in writing to the vendor's solicitor, some valid objection to the title, he shall be taken to have accepted the same, and all objections not delivered within that time shall be considered as waived.
6. If the purchaser shall insist upon any objection or Power to rescind.
requisition as to title or abstract, or evidence of title or otherwise which the vendor shall be unable or unwilling to comply with or remove, he may by notice in writing to the purchaser or his solicitor, at any time rescind this contract (not-

withstanding negotiations or litigation in respect thereof), in which event he shall return to him the said deposit, but without any interest, costs of investigating the title or other compensation whatever.

Cost of investigating title.

7. The purchaser shall bear the expense of producing and examining all deeds and writings not in the possession of the vendor, and of all journeys for that purpose, and of obtaining, making, and producing all attested official or other copies of, or extracts from, proceedings in any court of law or equity, deeds, wills, registers, or other documents, whether of record or not, and of obtaining all certificates of births, baptisms, marriages, or deaths, and of all declarations he may require, whether for the verification of the abstract, or to accompany his title.

Evidence of identity.

8. No evidence of identity shall be required beyond such as is afforded by the deeds and evidences in the possession of the vendor, and if any error or mistake shall appear to have been made in the description of the property, or of the vendor's interest therein, the same shall not vacate the sale, but if pointed out by either party prior to the completion of the purchase, a compensation or equivalent shall be given or taken by the vendor or purchaser as the case may be.

Conveyance.

9. The vendor shall not be required to procure the release, by a separate instrument, of any incumbrance affecting the property, but the party entitled to the benefit thereof shall concur in the conveyance to the purchaser for the purpose of discharging the same, and on payment of the balance of the purchase-money as aforesaid, the vendor and all necessary parties shall execute a proper conveyance for granting the fee simple of

the said premises unto and to the use of the purchaser and his heirs, with the usual covenants for title, such conveyance to be prepared by, and at the expense of, the purchaser, and to be sent in by him for execution days before the day fixed for completion.

10. If, from any cause whatever, the balance of the said purchase-money shall not be paid on or before the day of 18 , the purchaser shall pay interest thereon, from that day until the actual completion of the purchase, after the rate of £ per cent. per annum. Interest.
11. If the balance of the purchase-money shall not be paid on the said day of 18 , the said deposit shall thereupon be absolutely forfeited to the vendor, &c. [*continue as in Precedent 20, clause 6, ante, p. 25.*] Power to re-sell in the event of the purchaser's default.
12. The receipts of the vendor shall be good and effectual discharges for any purchase-money received on such re-sale, and the concurrence of the purchaser shall not be necessary in any sale to be made by virtue hereof. Receipts on re-sale.
13. The power of sale hereinbefore contained shall not prejudice the right of the vendor to enforce this contract for sale or the payment of the balance of the said purchase-money and interest. Power of re-sale not to prejudice vendor's rights under the contract.
14. The premises shall be at the risk of the purchaser from the date hereof. Purchaser to bear risk.
15. The expenses of, and incidental to this contract and of the stamp thereon, shall be borne by the vendor and purchaser in equal moieties. As WITNESS, &c. Costs to be borne equally.

Precedent 22. *Agreement for the Sale of Freehold Land Incorporating by Reference Public Sale Conditions of a Local Law Society (concise form).*

- Agreement.** IT IS AGREED between A.B. of &c. [*vendor*] and C.D. of &c. [*purchaser*] as follows :
- Consideration.** 1. The vendor agrees to sell and the purchaser to purchase at the sum of £ , and upon the terms and conditions hereinafter mentioned the premises described in the schedule.
- Tenure.** 2. The premises are sold for an estate of inheritance in fee simple in possession [*if any exceptions add*]
- And exceptions.** all erections, buildings, plant, machinery, and other effects on the ground are excepted out of the sale, and for the purpose of removing the same, the vendor shall be entitled to access to the premises at all times within months from this date [*or within* from the date hereinafter appointed for completion of the purchase].
- Completion.** 3. The purchase shall be completed, and the purchase money paid at the office of Mr. , the vendor's solicitor, situate in aforesaid on the day of next.
- Title.** 4. The vendor shall within days from the date hereof deliver to the purchaser or his solicitor an abstract of title commencing as to the pieces of land firstly and secondly described with an indenture dated, &c., and made, &c., and as to the piece of land thirdly described with an indenture dated, &c., and made, &c.
- Requisitions.** 5. Objections and requisitions on the title shall be delivered within days from the delivery of the abstract.

6. The Public Sale Conditions of the Law Society Certain public sale conditions so far as the same are applicable to a sale by private treaty shall be considered as incorporated with this agreement. AS WITNESS, &c.

THE SCHEDULE referred to.

23. *Agreement to rescind a Contract.*

Precedent 23.

AN AGREEMENT made, &c., BETWEEN A.B., of &c. [*purchaser*], of the one part, and C.D., of &c. [*vendor*], of the other part. WHEREAS the said C.D., in the month of , 18 , agreed to sell to the said A.B., who agreed to purchase from him, for the sum of £ , a certain piece or parcel of land situate in Park, in the county of , and then paid to the said C.D. £ in part payment of the said purchase-money, but no contract or agreement in writing was entered into between the said parties. AND WHEREAS the said A.B., shortly after such purchase, entered into possession of the said piece of land and partially erected thereon a building intended for a messuage or dwelling house, but being unable to finish the same, or to pay the residue of the said purchase-money to the said C.D., he has requested him to take back to himself the said piece of land, with the unfinished building thereon, which the said C.D. has agreed to do upon the terms hereinafter mentioned. Now THESE PRESENTS WITNESS that in pursuance of the said agreement, and in order to carry into effect the intention of the said parties, they do hereby mutually agree, the one with the other of them, as follows :—

Parties.

Recital of contract.

And of purchaser's inability to complete same.

Witnesseth.

1. The said contract for sale and purchase shall be rescinded and put an end to, and the said C.D. shall retain the said sum of £ so paid as aforesaid for his own use and benefit. Contract to be rescinded.

Vendor to resume possession of land.

2. The said C.D. shall resume possession of the said piece of land, and shall retain and keep as his own property the said unfinished dwelling house, and all building materials, articles, and things upon the said land for the purpose of erecting the same.

Purchaser to discharge all existing liabilities.

3. The said A.B. shall pay and discharge all debts and liabilities incurred by him for materials or otherwise in the erection of the said dwelling house or in relation thereto.

Mutual release.

4. The said A.B. and C.D. hereby release each other from the performance of the said contract, and from all actions, suits, and demands which either of them has or may have against the other in respect thereof, and from all costs, losses, damages, and expenses (except as in clause 3 is mentioned) already incurred, or to be hereafter incurred, in relation to the same.

Purchaser to execute further assurance.

5. Lastly, that the said A.B. shall, whenever requested, at the cost of the said C.D., his heirs or assigns, execute and do every such further assurance and thing for better assuring the said piece of land, dwelling house, and premises unto him or them, as he or they shall require. AS WITNESS, &c.

Precedent 24. *24. Agreement altering Terms of an Agreement (Endorsed on original).*

articles.

MEMORANDUM OF AGREEMENT made, &c., between the within-named [*or the said*] A.B. of the one part and the within-named [*or the said*] C.D. of the other part.

Recital of agreement to vary.

WHEREAS since the date of the within-written [*or the foregoing*] agreement the said A.B. and C.D. have mutually agreed to alter and vary the same so far as regards the amount payable and the respective times of

paying the remaining instalments of the unpaid purchase-money therein expressed to be due from the said C.D. to the said A.B. Now THESE PRESENTS WITNESS that the said A.B. agrees to accept and the said C.D. to pay in lieu of the balance of purchase-money remaining due and owing to the said A.B. from him and in full discharge thereof the sum of £ , payable by the instalments and in manner hereinafter mentioned ; that is to say, £ on the day of next, £ further on the, &c. [*and so on, specifying times and amounts*], and on the signing hereof the said C.D. shall make and deliver to the said A.B. his promissory notes for the above-mentioned instalments, bearing even date herewith payable on the days aforesaid, and shall duly pay each of the said notes at maturity. AS WITNESS, &c.

25. *Agreement giving the Option of Purchasing a Share in a Partnership, and for Services meanwhile.* Precedent 25.

AN AGREEMENT made, &c., BETWEEN A.B., of &c. Parties. [*vendor*], and C.D., of &c. [*purchaser*], of the other part.

WHEREAS the said A.B. has for some time past carried on the business of , in Street, under the style or firm of "A.B. and Co." and has employed the said C.D. therein as his foreman to manage the said business for him, but no partnership of any kind has subsisted between them, and all the capital, tools, utensils, stock-in-trade, credits, and effects, and the tenant's interest in the premises and goodwill of the business thereof were and are the sole property of the said A.B. as the said C.D. hereby acknowledges, and all the debts due and owing in respect of the said business are the personal obligations of the said A.B. AND WHEREAS the said A.B. has agreed with the said C.D. to

Recital as to the existing business and its past conduct.

And agreement to dispose of share to foreman.

give him the option of purchasing one equal half part or share or lesser part or share of and in the said business and all properties thereof, and until the expiration of the time hereinafter allowed for the exercise of such option of purchase by the said C.D. to continue to employ him as his foreman at the wages and commission hereinafter mentioned. NOW IT IS HEREBY MUTUALLY AGREED between the said parties as follows :—

Witnesseth.

Consideration
for sale.

1. In the event of the said C.D. paying to the said A.B. in cash on or before the day of , 18 , the value of such share in the said business, as he shall elect to purchase (not exceeding one moiety of the entire interest of the said A.B. for the time being therein), such value to be ascertained from the books thereof at the time of such election, the said C.D. shall be entitled to be the purchaser of such share ; and the said A.B. shall sell and assign it to him, and thereupon the said parties shall immediately enter into and execute articles of partnership (containing all usual and proper stipulations and agreements), to be prepared and executed at their joint expense.

Option to be
exercised
within a given
time.

2. If the said C.D. shall not before the said day of 18 , exercise the said option of purchase, and actually pay on or before that date the said purchase-money, then the said option is to be at an end, and the said A.B., is to be at full liberty to hold or dispose of the said business as he may think fit, without any claim or interference on the part of the said C.D.

Agreement to
employ pur-
chaser as
foreman pend-
ing exercise
of option.

3. Until the said C.D. shall purchase or forfeit by lapse of time the option of so doing, the said A.B. shall continue to employ the said C.D. as foreman, and he shall obey all the orders and directions of the said A.B., and shall discharge his duties faith-

fully and honestly in that capacity, and devote his whole time and attention exclusively thereto at the salary of £ per week; and in addition to such weekly salary, he shall be allowed and paid for so acting a commission of per cent. on all net profits arising from the said business, after deducting such weekly salary, and all other outgoings and expenses of whatever kind or nature soever, such commission to be ascertained and paid on the amount of cash which shall up to that period have been actually received by the said A.B., and in respect of which the said commission shall not have been previously paid or allowed to the said C.D., or at the option of the said C.D., the ascertained amount of such commission shall be placed to his credit in the books of the said business, and be considered a debt payable on demand to him by the said A.B., with interest thereon, from the time of the amount of the said commission being ascertained until payment after the rate of £ per cent. per annum.

4. The said C.D. shall keep proper books, to be provided by the said A.B., and whenever required shall render a faithful account of all business done by him, and of all goods sold and delivered, of all moneys paid and received by him, and of all stock in hand, in such form as the said A.B. shall require, and shall pay over to him on demand all sums of money that may from time to time be in his hands, and deliver over at any time on request all stock-in-trade and other effects under his control. Books of account to be kept by foreman.
5. The said C.D. shall take proper care of everything intrusted to his charge, and to the utmost of his skill and knowledge promote and extend the business, and shall keep a perfect supervision over all Foreman to promote business.

servants at any time employed therein, and himself report to the said A.B. any irregularities or defalcations that the said C.D. may observe or discover.

Vendor to be at liberty to take other partners.

6. Nothing herein contained shall prevent, or be construed to prevent, the said A.B. from engaging alone, or in co-partnership with any person or persons, in any other trade or business than the said street business, either in or elsewhere nor, if the said A.B. shall so choose, from admitting any other person or persons as partner or partners with him in the said street business.

Receipt of profits not to be deemed to make foreman a partner.

7. And, lastly, the receipt by the said C.D. of a portion of the profits of the said business by way of commission, as aforesaid, shall not, nor shall any other matter or thing herein contained, be deemed to constitute or render him liable as a partner with the said A.B.(a). AS WITNESS, &c.

Precedent 26. *26. Agreement for the Services of a Foreman and General Manager, with House rent free.*

Parties. AN AGREEMENT made, &c., BETWEEN A.B. of &c. [employer], of the one part, and C.D., of &c. [servant], of the other part. **Recital of agreement to employ.** WHEREAS, the said A.B., has commenced business in and upon the shop and premises, Number Street, in aforesaid, and has proposed to engage the said C.D. as Manager thereof, upon the terms hereinafter mentioned, to which proposal **Witnesseth.** the said C.D. has assented. Now, THEREFORE, in consideration of the premises and of the agreement hereinafter contained on the part of the said C.D., he, the said A.B., for himself, his executors, and administrators,

(a) See 28 & 29 Vict. c. 86.

doth hereby agree with the said C.D., his executors,
 and administrators, that he, the said A.B., will and Terms of en-
 gagement. by these presents doth hire and engage the said C.D.
 as his foreman and general manager of the business or
 businesses, which now is, or are, or shall, at any time
 within the term of years from the day
 of instant, be carried on by the said A.B., either
 in his own name or in, or by any other name, style, or
 description in or upon the said shop and premises,
 Number Street aforesaid, or in or upon any other
 shop and premises, in aforesaid, such hiring and
 engagement to continue for the said term of years. Duration.
 AND for the services of the said C.D., as such foreman Remunera-
 tion. and general manager he, the said A.B., will pay him a
 salary of £ per annum, by equal quarterly pay-
 ments on every the day of , the
 day of , the , day of , and the
 day of , in each year, and will also allow
 him and his family the use of the house at the back part And use of
 house. of the said shop, free from all rent, taxes, and outgoings.
 AND the said A.B., further agrees that the duties, powers, Duties, &c.,
 of foreman
 and manager. and responsibilities of the said C.D., as such foreman
 and general manager, as aforesaid, shall consist in
 buying all and whatsoever goods, stock, and articles of
 trade he may from time to time think proper for the
 purposes of the said business or businesses, and either to
 buy such goods, stock, and articles, for cash, or to
 pledge the credit of the said A.B., for the price thereof,
 and also to take the sole and entire management of the
 sale of all such goods, stock, and articles, either for
 ready money or on credit, and with or without any
 security for payment thereof, and particularly when he
 shall in his discretion think proper to sell by public
 auction the whole or any part or parts of such goods,
 stock, and articles, as for the time being may be in or
 upon any of the business premises upon such terms and

Power to use
employer's
name.

Agreement by
foreman and
manager to
accept such
terms.

conditions as he may think proper without the interference of the said A.B., his executors or administrators, and also to receive and pay all moneys that may be or become due, receivable or payable, in respect of the said business or businesses, with full power to deduct thereout from time to time the amount of his salary when and as each quarterly payment shall become due, and also to engage and employ upon such terms as he may think proper all such servants, clerks, and assistants as he may think necessary for carrying on the said business or businesses, and dismiss them or any of them at his own will and pleasure, and to make all needful disbursements in respect of the said business or businesses, and do all things that to him may seem expedient for the conduct and management thereof. AND for all or any of the purposes aforesaid to use the proper name of the said A.B., or the name, style, or description, which may be from time to time adopted by the said A.B., in relation to the said business or businesses, he, the said A.B., hereby granting to the said C.D. as well during the absence as in the presence of the said A.B., his full power and authority in the conduct and management of the said business and businesses, subject only to the right of the said A.B. to call for an account of the state thereof, and of the moneys received, paid, and disbursed by the said C.D., in connection therewith.

AND, in consideration of the agreement hereinbefore contained on the part of the said A.B., he the said C.D., for himself, his executors, and administrators, doth hereby with the said A.B., his executors and administrators, that he, the said C.D., will for and during the said term of years, from the , day of instant, undertake and discharge the duties and responsibilities of foreman and general manager of the said business or businesses of the said A.B., as hereinbefore mentioned or referred to. THAT he will accept the said

salary of £ , per annum, payable quarterly as aforesaid, and the free use of the said house at the back of the said shop, in full remuneration for his services as such foreman and general manager. AND THAT he will, whenever thereunto called and required by the said A.B., from time to time, render to him a faithful account and statement in writing of all things pertaining to the said business or businesses, and the assets, working management, liabilities, state, and condition thereof, and especially of all moneys received paid and disbursed by the said C.D. on account thereof. AS WITNESS, &c.

And render
account when
required.

27. *Agreement for the Services of a Foreman General Manager and Overlooker, at a Weekly Salary and per-centage on Profits.* **Precedent 27.**

AN AGREEMENT made, &c., BETWEEN A.B. and C.D., both of &c. [*employers*] and co-partners (carrying on business under the style or firm of "A.B. and Co.") of the one part, and E.F., of &c. [*servant*], of the other part. WHEREAS the said A.B., has for some time past carried on business in as on his sole account, under the said style of "A.B. and Co.," and the said E.F. has acted as his foreman in the management of the said business at a salary or wages of £ per week. AND WHEREAS the said A.B., and C.D., having lately entered into partnership for the purpose of carrying on the said business hitherto carried on by the said A.B., solely as aforesaid, it has been mutually agreed between them and the said E.F., that they shall retain the services of the said E.F., as foreman in the management of the said business upon the terms and conditions hereinafter appearing. NOW THEREFORE THESE PRESENTS WITNESS that in consideration of the agreement hereinafter contained on the part of the said

Parties.

Recital of
existing en-
gagement with
old firm.

Of alteration
in constitu-
tion thereof,
and new ar-
rangement.

Witnesseth.

<p>Terms of new engagement.</p> <p>Remuneration.</p> <p>Agreement by foreman manager and overlooker to accept such terms.</p>	<p>E.F., they, the said A.B. and C.D., shall and will and by these presents do hire, engage, retain and employ, the said E.F., as their foreman or general manager and overlooker in their said partnership, business, and shall and will pay and remunerate him for such services at the rate of £ per week, to be paid weekly at the end of each current week of the said hiring, and shall and will, in addition to the said fixed salary or sum of £ per week to be paid as aforesaid, pay to the said E.F., during the said hiring a commission or percentage calculated at the rate of per cent. on the net ascertained profits (if any) of the said partnership business, after paying all expenses and outgoings thereof or appertaining thereto, such commission or percentage to be paid to the said E.F., within calendar months next after the taking or balancing of the said partnership accounts at the end of each year. AND in consideration of the agreement herein-after contained on the part of the said A.B. and C.D., he, the said E.F., doth hereby agree with the said A.B. and C.D., that he, the said E.F., shall and will forthwith enter into the service and employment of the said A.B. and C.D., as their foreman, manager, and general overlooker in the conduct and management of their said partnership business, subject to the general direction, supervision, and approval, of the said A.B. and C.D., and shall and will at all times conduct and manage the duties of his said employment and service fully and faithfully in all respects, and obey, perform, and fulfil the directions and orders of the said A.B. and C.D., in relation thereto, and shall and will, if required, keep proper and sufficient books wherein he will from time to time make due and regular entries of all matters relating to or concerning such part of the said business as shall be committed to his charge, and shall and will whenever required submit the same to the said A.B. and</p>
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C.D., or either of them for their approval. AND that so long as the said employment and service shall continue he will not engage, or be interested or concerned, directly or indirectly, in any other business whatsoever, but will give the whole of his time and attention diligently to the said employment and service, and to the conduct of the said business to the best and fullest advantage thereof. AND the said parties hereto do hereby further mutually agree that the said employment and service shall cease, and determine, and this agreement and every clause, matter, and thing herein contained (except so far as may be necessary to enable any one or more of the said parties to sue the other or others of them for breach of this agreement) shall be null and void in any of the events or cases following; that is to say: In the event of, and upon, and concurring with the dissolution or determination by any means, or from any cause whatsoever of the partnership now subsisting between the said A.B. and C.D., or upon a month's notice in writing being given to either of the said parties by the other at any time during the said partnership of their or his intention to determine the said employment and service. AND IT IS FURTHER AGREED that the proportion of net profits (if any) which shall be ascertained or found to be due to the said E.F., up to the date of the determination of the said employment and service shall be paid to the said E.F., within calendar months after the end of the current year, within which such notice shall have been given as aforesaid. AND, lastly, in case of any dispute or difference arising between the said parties or their respective representatives at any time, concerning any matter relating to these presents such matter in dispute shall, on the request of either of the said parties, or their or his representatives, be referred to the decision of three disinterested persons, one of whom shall be chosen by each of the

And not to engage in any other business.

Events upon which agreement to be void.

Payment of per-centage.

Disputes to be referred to arbitration.

parties in difference, and the third by the persons so chosen. And whatsoever award the said arbitrators, or any two of them shall make and deliver in writing under their hands within days after such reference, or within such further time as the said arbitrators or any two of them shall direct, shall be binding and conclusive upon and between the said parties and their representatives. And if either of the said parties, or their representatives shall delay or refuse to name a referee as aforesaid upon reasonable request, the other or others of them shall be at liberty forthwith to name the two original referees, giving seven days prior notice of such nomination to the party or representatives so delaying or refusing. And for enforcing the performance of any award to be made as aforesaid such award, and the submission thereto herein contained or to be entered into by any separate instrument, shall from time to time be made a rule of any Court of Record in England on the application of either of the said parties or their respective representatives, if such court shall so please. As WITNESS, &c.

Precedent 28. *Agreement for the Services of an Agricultural Superintendent for an Estate Abroad.*

Parties. AN AGREEMENT made, &c., BETWEEN A.B. of &c. [*employer*], but at present residing, &c., of the one part, and C.D., of &c. [*servant*], of the other part. **Witnesseth.** THE said A.B., for himself, his executors, and administrators, hereby agrees with the said C.D., his executors and administrators, that he, the said A.B., will take the said C.D. into his service and employment. And the said C.D., for himself, his executors, and administrators, hereby agrees with the said A.B., his executors, and administrators, that he, the said C.D., will enter into the service and

employment of the said A.B., as the agricultural superintendent of the estate of him, the said A.B., called the

Estate, situate, &c. And such service and Terms.
employment shall be upon the terms and subject to the conditions hereinafter contained, that is to say :

1. The said service and employment shall be considered ^{Duration.}
as commencing on the day of next,
and shall continue thenceforward for the term of
 years (subject nevertheless as hereinafter
 appearing).
2. The duties of the said C.D. shall consist in directing ^{Duties.}
the cultivation and superintending the general
agricultural management of the said estate, and
of the stock and cattle thereof, and for that pur-
pose he shall have the custody and care of all
agricultural implements, and the control of all
agricultural servants and labourers, and the
general charge of all matters incident to such
direction, superintendence, and management.
3. The said C.D. shall at all times yield prompt and ^{Superinten-}
faithful observance to the orders of the said A.B., ^{dent to give}
or his lawfully constituted agent or agents for the ^{the whole of}
time being, and shall give the whole of his time ^{his time.}
and attention to the said service and the duties
pertaining thereto, and shall not nor will during
any part of the said term embark, engage, or be
interested in any other business or employment,
or in any speculation or adventure whatsoever,
either on his own account or as the agent or
representative of any other person or persons
whomsoever.
4. The said A.B. shall pay to the said C.D. a salary at ^{Remunera-}
the rate of £ sterling per annum, such ^{tion.}
salary to be payable quarterly on the day
of , the day of , the
day of , and the day of

- in each year, the first quarterly payment to be due on the day of next.
- How payable.** 5. One half of each quarterly payment of salary shall be made by a bill on some responsible house in aforesaid, payable after sight, and the other half thereof in such manner and form as the said C.D. shall from time to time reasonably choose.
- Passage out to be paid.** 6. The said A.B. shall and will pay the passage money of the said C.D. from to the said estate.
- House to be found with certain privileges.** 7. The said A.B. shall and will find and provide the said C.D. with a house on or near the said estate free of rent, and that the said C.D. shall and may use for his own consumption a sufficient and necessary portion of the vegetables, poultry, eggs, milk, butter, and other eatables (except flesh meat) grown or produced in or upon the said estate, but that all other expenses of living and other outgoings of the said C.D. shall be borne and paid by him personally at his own proper costs and charges.
- Misbehaviour of superintendent to determine service.** 8. If at any time during the said term the said C.D. shall be guilty of drunkenness, dishonesty, wilful disobedience, or other gross misconduct, it shall be lawful for the said A.B., or his lawfully authorised agent or agents for the time being, to dismiss the said C.D. forthwith from the said service and employment, and the said C.D. shall thereupon forfeit all benefit and claim whatsoever under or by virtue of this agreement.
- Provision for determining agreement in the event of climate being unsuitable.** 9. If at any time during the said term the said C.D. shall produce and show to the said A.B., or to his lawfully authorised agent or agents for the time being, a medical certificate to the effect that the climate of the place where the said C.D. shall

reside, and where his said service and employment shall be carried on, is dangerous to the health of the said C.D., then the said C.D. shall thereupon have full power to cancel and annul this agreement forthwith by giving a written notice to the said A.B., his executors or administrators, or to such lawfully authorised agent or agents as aforesaid; and on such notice being given the said term and the said service and employment shall cease and be at an end, and this agreement and every clause, matter, and thing therein contained shall be null and void, except so far as to enable either party to sue the other for a former breach thereof, and so far as to enable the said C.D. to recover the amount or proportion of salary that may be due to him up to the day of the date of such notice. As witness, &c.

29. *Agreement for an Ale and Porter Agency.* **Precedent 29.**

AN AGREEMENT made, &c., BETWEEN A.B. and C.D., both of &c. [*brewers*], of the one part, and E.F., of &c. [*agent*], of the other part. WHEREBY the said A.B. and C.D. agree to employ the said E.F., and the said E.F. agrees to act as the sole agent at aforesaid of the said A.B. and C.D., and the survivor of them and their or his future partner or partners in trade for the sale and delivery in , and the neighbourhood of , ale and porter, to be brewed by the said A.B. and C.D., or their firm, for the time being. AND the said A.B. and C.D., for themselves and the survivor of them and their and his future partner and partners, agree with the said E.F. to allow to him, for and in respect of all moneys which he may receive from the sales under the said agency, a commission at the rate of per centum on the gross

Parties.

Witnesseth.

Employment of agent.

Amount of commission.

E.F., they, the said A.B. and C.D., shall and will and
 by these presents do hire, engage, retain and employ,
 the said E.F., as their foreman or general manager and
 overlooker in their said partnership, business, and shall
 and will pay and remunerate him for such services at
 the rate of £ per week, to be paid weekly at
 the end of each current week of the said hiring, and
 shall and will, in addition to the said fixed salary or
 sum of £ per week to be paid as aforesaid, pay
 to the said E.F., during the said hiring a commission
 or percentage calculated at the rate of per cent.
 on the net ascertained profits (if any) of the said partner-
 ship business, after paying all expenses and outgoings
 thereof or appertaining thereto, such commission or per-
 centage to be paid to the said E.F., within
 calendar months next after the taking or balancing
 of the said partnership accounts at the end of each
 year. AND in consideration of the agreement herein-
 after contained on the part of the said A.B. and C.D.,
 he, the said E.F., doth hereby agree with the said A.B.
 and C.D., that he, the said E.F., shall and will forth-
 with enter into the service and employment of the said
 A.B. and C.D., as their foreman, manager, and general
 overlooker in the conduct and management of their said
 partnership business, subject to the general direction,
 supervision, and approval, of the said A.B. and C.D.,
 and shall and will at all times conduct and manage the
 duties of his said employment and service fully and
 faithfully in all respects, and obey, perform, and fulfil the
 directions and orders of the said A.B. and C.D., in
 relation thereto, and shall and will, if required, keep
 proper and sufficient books wherein he will from time
 to time make due and regular entries of all matters
 relating to or concerning such part of the said business
 as shall be committed to his charge, and shall and will
 whenever required submit the same to the said A.B. and

Terms of new
engagement.

Remunera-
tion.

Agreement by
foreman
manager and
overlooker to
accept such
terms.

C.D., or either of them for their approval. AND that so long as the said employment and service shall continue he will not engage, or be interested or concerned, directly or indirectly, in any other business whatsoever, but will give the whole of his time and attention diligently to the said employment and service, and to the conduct of the said business to the best and fullest advantage thereof. AND the said parties hereto do hereby further mutually agree that the said employment and service shall cease, and determine, and this agreement and every clause, matter, and thing herein contained (except so far as may be necessary to enable any one or more of the said parties to sue the other or others of them for breach of this agreement) shall be null and void in any of the events or cases following; that is to say: In the event of, and upon, and concurring with the dissolution or determination by any means, or from any cause whatsoever of the partnership now subsisting between the said A.B. and C.D., or upon a month's notice in writing being given to either of the said parties by the other at any time during the said partnership of their or his intention to determine the said employment and service. AND IT IS FURTHER AGREED that the proportion of net profits (if any) which shall be ascertained or found to be due to the said E.F., up to the date of the determination of the said employment and service shall be paid to the said E.F., within calendar months after the end of the current year, within which such notice shall have been given as aforesaid. AND, lastly, in case of any dispute or difference arising between the said parties or their respective representatives at any time, concerning any matter relating to these presents such matter in dispute shall, on the request of either of the said parties, or their or his representatives, be referred to the decision of three disinterested persons, one of whom shall be chosen by each of the

And not to engage in any other business.

Events upon which agreement to be void.

Payment of per-centage.

Disputes to be referred to arbitration.

losses which shall or may happen to the said vessel in every respect, or the accounts thereof, or otherwise howsoever shall be borne and paid by the said A.B. and C.D., or their respective executors and administrators in proportion and according to their respective parts which they shall respectively hold in the said vessel, and they and each of them and each of their executors and administrators shall and will respectively advance and pay the same at any time when thereunto requested. AND that the said A.B. and C.D., and their respective executors or administrators shall not and will not, directly or indirectly, do or suffer to be done any act, matter, or thing whatsoever whereby the said vessel shall or may be seised or charged, but shall and will at all times during the continuance of this agreement use their and each of their utmost care to preserve the said vessel, with the appurtenances, from all spoil and damage. AND THAT so long as he the said A.B., his executors or administrators, shall be and act as ship's husband, and have the custody and management of the said ship's accounts, he and they shall and will at the close of every year, or as soon after the expiration of the voyage on which the vessel may then be engaged as practicable, make ready and exhibit to the said C.D., his executors, administrators and assigns a full, just and true account in writing of all the freights, earnings and profits that shall then have arisen from or grown due for or in respect of the said vessel, and also of all losses and damages which shall or may have happened since the then preceding settlement to or on account of the said vessel and for all matters and things whatsoever relating thereto. AND IT IS HEREBY FURTHER AGREED that the said A.B., his executors or administrators shall and will, previous to each periodical settlement of his said accounts as aforesaid, pay and discharge all the debts due or on account of the said vessel in case there shall be sufficient

Neither owner
to incumber.

Ship's hus-
band to ac-
count at stated
periods.

And pay or
receive
balance ap-
pearing there-
by.

money in his hands for that purposes, and shall and will pay or cause to be paid unto the said C.D., his executors or administrators, his or their representative proportion of all such freights, earnings, profits and benefits; but if any loss or damage shall appear to have happened during the then preceding year, that then and in that case, on the settlement of such accounts as aforesaid, the said C.D., his executors and administrators shall and will advance and pay, according to the share he may hold in the said vessel, his or their proportion of such loss upon demand unto the said A.B., his executors and administrators. AND that he the said A.B., his executors and administrators shall and may from time to time insure the whole of the said vessel in such association, clubs, or insurance offices or otherwise and to such amount as the said A.B., his executors or administrators, shall think proper, and shall likewise pay all such sum or sums of money as shall from time to time become due or payable for or in respect of any premiums of insurance or of any policy or policies of insurance made on the said vessel or on any cargo or cargoes to be taken therein or on the freight of the said vessel. AND IT IS HEREBY MUTUALLY DECLARED AND AGREED by and between the said parties hereto that all such insurances as shall from time to time and at all times be made or effected upon the said vessel and premises shall be for the benefit of the said owners, parties hereto, in such proportions as aforesaid, and that the said insurance shall from time to time be received and enjoyed by the said owners, parties hereto, in the like proportions. AND FURTHER that if the said A.B. and C.D., or either of them, their or any of their executors or administrators shall at any time hereafter be minded or desirous to sell and dispose of his part or share of the said vessel and premises, then and in such case the person so desirous to sell shall give days' notice in writing of such his intention to the other of them the

Power to insure.

For joint benefit.

Provision in case of desire by either to dispose of his share in the vessel.

said parties hereto, his executors or administrators, to be left with him or them respectively, or at his or their usual places or place of abode, and shall at the same time offer to sell his or their shares or share to the other of the said parties hereto, his executors or administrators, at a fair price or valuation to be fixed thereon by three indifferent professional valuers, one of them to be chosen by the said party, to whom such notice of sale has been given, his executors or administrators, one other of them by the party or parties giving such notice of sale, and the third or other of them by the two indifferent valuers to be chosen as aforesaid. AND THAT such valuation shall take place immediately on the arrival of the said vessel from off the voyage on which she shall at the time of such notice being given be engaged; and in case the owner or owners to whom such notice shall have been given shall neglect or refuse to purchase the same at such valuation within days from the making of the same, or shall within days from the arrival from the said vessel from off the voyage on which she shall be engaged at the time of giving such notice as aforesaid, neglect to appoint a valuer, then at the expiration of either of the said periods of days respectively the whole of the said vessel called the " ," with the materials and appurtenances, shall be sold by public auction at aforesaid or such other convenient place as shall be fixed upon by the said parties hereto, their respective executors or administrators, for the best price that can be reasonably had or gotten for the same.

At expiration of any voyage.

Liberty for either to bid.

Conditions of sale.

AND THAT the owners, parties hereto, or either of them, their executors or administrators, shall and may be at liberty to bid for and become the purchaser of the said vessel. AND THAT also that the said owners, parties hereto, and each of them, their and each of their executors or administrators, shall and will join in and agree to the usual conditions for the sale of the said

vessel, and in giving and delivering peaceable and quiet possession thereof to the purchaser or purchasers. AND Seller to execute transfer. ALSO shall and will upon demand execute the assignment or transfer of the said vessel and premises unto the purchasers thereof. AND THAT the expenses of and preparatory to and attendant on the completion of such sale or otherwise in relation thereto shall be borne and paid by both the said parties hereto, their respective executors and administrators, in proportion to the shares they respectively hold in the said vessel. AND LASTLY Disputes to be referred to arbitration. the said owners, parties hereto, do and each of them doth hereby for himself promise and agree to and with each other that if any doubt, question, difference, or dispute shall happen to arise between them, the said owners, parties hereto, touching or concerning the said vessel or the accounts thereof or any way relating thereto, the same shall within calendar months after such difference or dispute shall arise be referred unto three indifferent persons, arbitrators, one of whom shall be chosen by each of the parties in difference and one other of them by the said referees so to be chosen as aforesaid, to be by them, the said arbitrators, or any two of them, ended and determined, and that each of them, the said parties hereto, their executors and administrators, shall and will stand to, abide by, perform, fulfil, and keep such award so as the same be rendered and given under the hands of the arbitrators, or any two of them, within calendar months next after their appointment. AND THAT such agreement of reference, arbitration, bond, or submission deed, and the award to be made in pursuance thereof shall be made a rule of Her Majesty's High Court of Justice, to the intent that the said parties may be finally bound and concluded thereby. As WITNESS, &c.

**Precedent
31.****31. Agreement for Testing and Working a
Patented Invention.**

Parties. AN AGREEMENT made, &c. BETWEEN A.B., of &c. [*inventor*], of the one part, and C.D., of &c., E.F., of &c., and G.H., of &c. [*speculators*], of the other part. WHEREAS the said A.B. has from the Office for Registry of Patents a certificate of protection bearing date the day of in respect of the use and exercise of his certain invention for converting, &c. [*here describe invention*].

Recital of invention. AND WHEREAS the said invention has not yet been tried, and the said A.B. being desirous that it should be tried forthwith, has applied to the said C.D., E.F., and G.H., who have agreed with him and with each other to take the necessary steps for testing and ascertaining the value of the said invention with the ulterior view (in the event of a satisfactory result of the experiment) to a joint mutual adventure of all the said parties hereto in the objects and purposes of the said invention, but nevertheless upon the terms and conditions hereinafter appearing. Now THEREFORE the said A.B., for himself, his executors, and administrators, in consideration of the agreement hereinafter contained on the part of the said C.D., E.F., and G.H., doth hereby agree with the said C.D., E.F., and G.H., and with each of them and their respective executors and administrators, that he, the said A.B., shall and will forthwith permit and suffer the said C.D., E.F., and G.H. to take all necessary measures and proceedings for the purpose of fully and fairly testing and trying the utility and value of the said invention and its application to the purposes for which it was designed, and that in order thereto he will from time to time give to them and each of them every information relative to the said invention and the nature, operation, and results thereof, and render to them and each of them every assistance in his power with the view

And agreement as to trial.

Witnesseth.

Inventor to permit trial.

of having the said invention so fully and fairly tested and tried as aforesaid. AND FURTHER that in case such trial shall in the judgment and opinion of the said C.D., E.F., and G.H. prove to be successful, and the said invention be by them ascertained to be of utility and value for the purposes for which it was designed, then he the said A.B. will join with the said C.D., E.F., and G.H. in the working thereof for their mutual and equal benefit as hereinafter mentioned. AND the said C.D., E.F., and G.H., each for himself severally and his respective executors and administrators, in consideration of the agreement hereinbefore contained on the part of the said A.B., hereby agree with the said A.B., his executors, and administrators that they will forthwith proceed by all due and proper means to have the said invention fairly and fully tested and tried, and will from time to time find and provide the funds and take, use, and adopt all such means, processes, and appliances as may be necessary for that purpose. And that in case the said invention shall upon such full and fair trial prove, in the judgment and opinion of the said C.D., E.F., and G.H., successful and of full utility and value for the purposes for which it was designed, they will pay to the said A.B. the sum of £ as the consideration or purchase-money of or for a permanent joint interest in the said invention and the future results thereof, and will thereupon join with the said A.B. in working the said invention for their mutual and equal benefit. AND each of them the said A.B., C.D., E.F., and G.H., for himself, his executors, and administrators, hereby agrees with the others and each other of them, their and his respective executors and administrators, that full and ample time shall be taken and allowed in testing and trying the said invention, but so nevertheless that there be no unnecessary delay in the use and adoption of the means, processes, and appliances necessary thereto;

And if successful join with speculators in working same.

Speculators to test invention at their own cost.

And buy same if successful.

Ample time to be allowed for testing.

Result of test to be declared within a given time. that the judgment and opinion of the said C.D., E.F., and G.H. with reference to the result of the said testing and trial shall be declared within calendar months after such result shall have been ascertained;

Invention to be patented if successful. that if such result be satisfactory, and it shall appear to the said parties hereto that the said invention is of sufficient value and utility to carry the same into full prosecution and use, then letters patent for the said invention shall be immediately taken out in the name of the said A.B., but at the joint equal expense of all the

Parties to be thenceforward jointly interested in profits and losses. said parties hereto, and the said parties hereto shall be thenceforward engaged and interested in a joint adventure for working, exercising, and carrying on the said invention under the letters patent so to be obtained as aforesaid for their joint benefit in equal proportions, and shall so continue for the then entire residue of the term to be granted in the said letters patent; that the said parties will in like manner bear in equal proportions the losses of the said joint adventure; that the said joint

And special agreement to be signed. adventure shall be prosecuted in such manner, upon such terms, and with and under such conditions and regulations as to the management thereof in all matters of detail as the said parties hereto shall mutually agree upon, and which shall be embodied in a special agreement to be then prepared and signed in substitution of these presents; that such agreement shall expressly provide against the assignment or transfer of or other dealing with the share or interest of any of the parties in the said joint adventure to or for the benefit of any other person or persons whomsoever, without the full knowledge and consent of all the other parties thereto; AND that if the said parties shall decide to take out a patent or patents for any foreign country, all the said parties shall

Speculators to provide money for testing. have an equal interest in such patent or patents; AND, LASTLY, each of them the said C.D., E.F., and G.H., for himself, his executors, and administrators, hereby agrees

with the others and each other of them, their, and his respective executors and administrators, that they will contribute and pay the costs and expenses of and attending the said testing and trial, AND also the said sum of £ in equal shares and proportions. As And purchasing in equal shares.
WITNESS, &c.

32. *Agreement for the Services of an Assistant.* **Precedent 32.**

To A.B., of &c. [*servant*].

IN CONSIDERATION of your faithfully discharging the Proposal.
duties that may devolve upon you whilst in our establishment, we agree to engage and to continue to employ you as one of our assistants in our business of now carried on by us in , on the terms following, Terms.
that is to say :—THAT you shall devote the whole of your Assistant to devote whole time, &c.
time and to the utmost of your power promote and extend our business, obey all orders and directions given by us or our managers, and discharge the duties of your situation faithfully and honestly, for the period of Term.
years to be computed from the day of 18 , determinable as hereinafter mentioned, and for so doing, we agree to allow and pay to you the remuneration following, in lieu of salary, viz. :—For the Remuneration.
year of the said term, a percentage after the rate of £ per cent. per annum upon the net profits actually realised by us in our business, after deducting all expenses of, and incidental to the same, including rent, salaries, taxes, interest upon capital, losses from bad debts, and all other outgoings; for the year of the said term, a percentage of, &c. [*and so on, specifying year and commission*]. IT IS, HOWEVER, expressly stipulated that such percentage upon profits shall not create or be held to constitute a partnership, and that none, express or implied, shall subsist between us. You shall be permitted to draw such sums on account of your Payment of per-centage not to create a partnership.
To be permitted to draw on account.

Assistant to
supervise es-
tablishment.

Notice to de-
termine ser-
vice.

remuneration and at such times as you may please, not exceeding £ per calendar month; which sums shall be charged to your account, and the balance (if any) found to be due to you on ascertaining our net profits, shall be paid to you on demand; but in the event of you having overdrawn your percentage, you shall repay the excess when ascertained. IT IS ALSO AGREED that you shall take proper care of everything belonging to us intrusted to your charge, and keep a perfect supervision over all assistants or servants placed under you in our establishment, and immediately report to us any irregularities or defalcations you may discover in your own department; and that you shall not carry on or be interested in any other business whatever. AND the service herein mentioned shall be determinable at any time by either of us giving to the other calendar months previous notice, in writing, for that purpose; and in case it shall expire at a time other than the usual annual period of ascertaining any profits, the percentage payable to you for the period between the previous annual balancing and the expiration of such notice shall be calculated on the amount of the net profits of the preceding year ending at the time of the prior yearly balancing.

DATED the day of , 18 .

C.D. and E.F. [*employers*].

Acceptation.

I AGREE to the above-mentioned terms, and undertake faithfully to abide thereby, and to comply with and carry out the same.

A.B. [*servant*].

Precedent
33.

33. Agreement for the Services of Husband and Wife at a Concert Hall.

To A.B. and C.D., of &c. [*proprietors*].

Proposal.

IN CONSIDERATION of your employing me and my wife F.F., at the respective salaries hereinafter mentioned, I

agree, on my own behalf and on behalf of my said wife, that we will enter your service for a period of Terms.
years from the day of 18 , and discharge our respective duties as hereinafter defined:—

1. I will become and act as principal basso and manager of the stage, mechanical, theatrical, and musical department of the Concert Hall, Husband to act as basso and stage manager. and take upon myself the entire supervision and management in that department, subject to your direction and approval, and devote my whole time and energies thereto; but it is understood that I am not to be called upon to appear in theatrical costume, or otherwise than in plain dress, in respect of which services you are to pay me a salary of £ per week, payable every Saturday.
2. My wife shall become and act as principal mezzo Wife to act as soprano, and take upon herself and duly perform whatever duties may be incidental to her said service, or otherwise, as vocalist in the musical selections performed at the said concert hall, she also being not called upon to appear in characteristic costume, and in respect of whose services you are to pay me a salary of £ per week, payable as aforesaid.
3. We will attend at the said concert hall from Hours of attendance. to o'clock every working evening, unless prevented from illness, and give our utmost attention to rehearsals, and to the due performance of our respective vocations faithfully and regularly according to professional custom or usage.
4. I will keep the books, papers, and writings pertaining to the business of my employment in a proper manner, and will attend at the office of the said concert hall at all reasonable times during the day Husband in addition to other duties to keep the books, &c.

for the due transaction of my various duties, and whenever required I will render a true statement of all business done, and of everything belonging to you in the possession or control of myself or my wife, and deliver up the same, and in the meantime will take proper care of all things intrusted to my keeping, and will not conceal, waste, or make away with, obliterate, or deface, nor permit (so far as I am able to prevent it) the same to be done by others, any property or things in my care as aforesaid in connection with my said employment; and when I cease to be in your service I will desist from interfering therein, and from holding myself out as your manager or servant.

Neither salaries to be paid in case of sickness.

5. No salary is to be payable to me or to my wife during such time (if any) as we or either of us shall be absent through sickness or otherwise.

DATED the day of 18 .

E.F. [*husband*].

Acceptation. WE AGREE to accept Mr. and Mrs. E.F. on the terms and conditions above specified.

A.B. and C.D. [*proprietors*].

**Precedent
34.**

34. Agreement for the Services of a Commission Agent.

Parties. AN AGREEMENT made, &c., BETWEEN A.B., of &c. [*agent*], of the one part, and C.D. and E.F., of &c. Witnesseth. [*principals*], of the other part. IT IS HEREBY AGREED between and by the said parties hereto as follows:—

Duties of agent and remuneration.

1. That the said A.B. shall be employed and act for the said C.D. and E.F. as their agent for the sale of sold by them, and shall faithfully and honestly execute and perform the duties of his

employment as such agent to the utmost of his skill and knowledge, and promote their interests, and from time to time, on request, render a just and true account in such manner as they shall require, of all his dealings and transaction as such agent, and he shall be paid and allowed for so acting the commission of for every hundredweight, and so in proportion for every quarter or less quantity of goods and stores sold by him for and on account of the said C.D. and E.F., such commission to be paid to the said A.B. at the end of each on the amount of cash that shall up to that period have been actually received by the said C.D. and E.F. in respect of goods sold by the said A.B., and in respect of which the said commission shall not have been previously paid or allowed to him, and the said A.B. shall bear and pay his own travelling expenses.

2. That the said A.B. shall collect and receive the ^{Agent to collect.} accounts and debts to become due and owing to the said C.D. and E.F. for goods, stores, and merchandise, supplied through his agency, except in cases where the said C.D. and E.F., shall, by notice to the said A.B., elect to draw bills or cash orders on the purchaser direct, and he shall pay over to the said C.D. and E.F., in cash on and in every the moneys received by him on their account as aforesaid.
3. That the said C.D. and E.F. shall not be bound to ^{Principals not obliged to execute orders.} execute any orders received through the said A.B. unless they shall think fit, and the said A.B. shall not sell goods on credit to any person or persons whom the said C.D. and E.F. shall previously have forbidden him to trust, and shall personally make good all loss sustained by them by reason

of any breach of this stipulation, or of any of the conditions herein contained.

Agent to be at liberty to take other commissions of a different description.

4. That the said A.B. shall be at full liberty, during the continuance of this agreement, to sell and dispose of, by commission or otherwise, any goods, wares, or merchandise of a different description to that sold by the said C.D. and E.F., for any person or persons whomsoever.

Notice to determine agency.

5. That the agency hereby created shall be determinable by either party giving to the other or others of them a notice in writing to that effect, and on the delivery of such notice the said A.B. shall give up to the said C.D. and E.F. all books, papers, and property in his possession or control belonging to them, and shall thenceforth desist from using their names in anywise, or acting or holding himself out as their agent, and this agreement shall then be at an end, except in respect of any claim which either of the said parties may have against the other of them for any previous breach of the agreements herein contained. As WITNESS, &c.

Precedent 35. *Agreement to refer to a Sole Arbitrator (concise form).*

Parties.	AN AGREEMENT made, &c., BETWEEN A.B., of &c., of the one part, and C.D. and E.F., of &c., of the other part.
Recital of claim.	WHEREAS the said A.B. claims a considerable sum of money to be due to him from the said parties hereto of the second part, under and in respect of, &c. [<i>set out the fact</i>].
And agreement to refer.	AND WHEREAS the said C.D. and E.F. dispute such claim, and for determining the said dispute the parties hereto have agreed to refer the same as herein-after mentioned.
Witnesseth.	NOW THESE PRESENTS WITNESS that the said parties agree to refer all questions as to the said

dispute to the certificate or award of Y.Z, of, &c. Appointment of arbitrator.
 [arbitrator], so that such certificate or award be made in writing on or before the day of next, or such further time as the arbitrator by writing under his hand (whether before or after the said day) shall from time to time appoint. AND THAT each party shall produce Each party to produce deeds, &c. before the arbitrator all deeds, contracts, plans, notices, books, or documents relating to the premises, and that they shall perform and keep the certificate or award, and shall not bring any writ of error, or commence or prosecute any action in any court whatever against the others or other of them, or against the arbitrator for any matter (save enforcing the certificate or award) relative hereto. AND THAT the parties and their witnesses shall be And give evidence. examined on oath if required, and that if any of the parties impede the arbitrator from making such certificate or award by affected or wilful delay, or by non-attendance after reasonable notice, and without satisfactory excuse, then the arbitrator may proceed *ex parte*. AND Award may be made a rule of court. IT IS AGREED that this submission may be made a rule of court. any of Her Majesty's Courts of Record in England, and that the costs of this agreement, of the certificate or Costs. award, of proceeding thereon, and of the expenses of making this submission a rule of court, shall be in the discretion of the arbitrator. AS WITNESS, &c.(a)

(a) It is advisable, when practicable, that the execution of an agreement to refer should be attested, either by an independent witness or by the adverse solicitor (if such a term may be applied) to each party, so that should the award have to be made a rule of court the affidavit of execution by the party against whom the award is given may be made without difficulty.

**Precedent
36.****36. Agreement to refer Disputes touching the
Construction of Agreements.****Parties.****Recital of disputes and agreement to refer.****Witnesseth.****Appointment of arbitrator.****Award to be conclusive.**

AN AGREEMENT made, &c. BETWEEN A.B., C.D., and E.F., all of &c., of the one part, and G.H., of &c., of the other part. WHEREAS disputes and differences have arisen and do now exist between the said parties touching their respective rights, duties, and liabilities under or in respect of three several agreements, one of which is dated, &c., and made between the said G.H. of the one part and the said parties hereto of the first part of the other part, another of which is dated, &c., and made between the said parties hereto of the first and second parts, and one, J.K., of the other part, and the third is dated, &c. and made between the said parties hereto of the first and second parts and one L.M., and touching the preparation of the said three agreements and the purport, meaning, intention, and construction of the same respectively, and for the purpose of adjusting the said disputes and differences and all other matters in difference (if any) between the said parties hereto the reference hereinafter agreed to has been arranged. Now THESE PRESENTS WITNESS, and the said parties hereto do hereby mutually agree to refer the said disputes and differences, and all other matters in difference (if any) between them, to the certificate or award of Y.Z., of &c. [arbitrator], so that such certificate or award be made in writing on or before the day of next, or such further time as the said Y.Z., by any writing signed by him (whether before or after the said day), shall from time to time appoint. AND IT IS AGREED that the certificate or award of the said Y.Z. shall be final and conclusive in the premises. AND THAT such certificate or award the said Y.Z. shall have power to make notwithstanding the death of all or any of the said parties in difference. AND THAT the said parties respectively shall

and will well and truly obey and perform the certificate or award of the said arbitrator touching the matters in dispute. AND THAT the said parties respectively and their respective witnesses shall and will attend the said arbitrator and submit to be examined touching the matters in dispute upon oath or otherwise as the said arbitrator shall direct. AND THAT the said parties respectively shall produce and show forth to the said arbitrator all deeds, contracts, writings, plans, notices, books, accounts, letters, papers, and documents touching the matters in dispute which shall be in their or any of their custody, possession, or power, if thought necessary by the said arbitrator. AND FURTHER, that if any of the said parties to this submission shall prevent or obstruct the said arbitrator from making an award or certificate in the premises by non-attendance before him or by non-production of any deeds, contracts, writings, plans, notices, books, accounts, letters, or documents in their custody, possession, or power which may be material or necessary in the judgment of the said arbitrator, or otherwise, after such notice as the said arbitrator shall deem reasonable for that purpose, then the said arbitrator shall be at liberty to proceed in the said reference *ex parte*. AND THAT no writ of error or action whatever shall be commenced or prosecuted by the said parties or any of them against the said arbitrator, or against the other or others of them for or relating to the matters hereby referred, except for the purpose of enforcing the certificate or award to be made in pursuance hereof. AND THAT this submission may be made a rule of any of Her Majesty's Courts of Record in England if required by the said parties or any of them. AND THAT the costs of and incident to this agreement of the said reference and arbitrator and his certificate or award shall be in the discretion of the said arbitrator, who may direct to and by whom and in what manner and when the same or any

Parties to attend and give evidence.

To produce deeds, &c.

Power to proceed *ex parte*.

No action to be brought in respect of the subject-matter of the agreement.

Award may be made a rule of court.

Costs of reference, &c.

And of making
award rule of
court.

Provision in
case original
award defec-
tive.

part thereof shall be paid. AND THAT, if by reason of any default in performance of the said certificate or award to be made in pursuance hereof by any of the said parties, the others, or other of them, shall procure this agreement to be made a rule of court, then the costs of making the same such rule of court shall be borne and paid by the party making default, unless the court shall otherwise order. AND, LASTLY, it is agreed that if the certificate or award of the said arbitrator shall be bad or defective in any respect, so that the same shall or may be set aside on that account, the authority of the said arbitrator shall thereupon revive, and it shall be competent for the said arbitrator to make a new certificate or award, either upon the original evidence laid before him, or upon such re-examination of the parties and their respective witnesses or any of them, and of their papers and documents, as the said arbitrator may deem necessary, and so *toties quoties* until a good and sufficient certificate or award shall be made by the said arbitrator in respect of the matters hereby referred. AS WITNESS, &c.

Precedent 37. *Agreement to refer the Terms of a Dissolution of Partnership to two Arbitrators and an Umpire.*

Parties.

Recital of
partnership.

And disputes
and agree-
ment to refer
same.

AN AGREEMENT made, &c. BETWEEN A.B., of &c., of the one part, and C.D., of &c., of the other part. WHEREAS the said parties hereto on the day of 18 , entered into partnership together as at which business they have since carried on, but no articles of agreement were executed by the said parties, defining the terms or conduct of the said partnership. AND WHEREAS disputes and differences having arisen between the said parties in respect of the said partnership they have mutually determined to dissolve

the said partnership; but, being unable to agree upon the terms of such dissolution and the security to be given for the discharge of the debts and liabilities of the said partnership, they have agreed to refer all such disputes and differences, and the terms of such dissolution, and the security to be given for the discharge of the said debts and liabilities, and all other matters in difference (if any) between them to arbitration as herein-after mentioned. Now THESE PRESENTS WITNESS that the said parties hereby refer all disputes and matters as aforesaid in difference between them to the certificate or award of W.X. and Y.Z., both of &c. [arbitrators], and such third person as the said arbitrators shall, by writing before proceeding upon the said reference, appoint as umpire, with full powers for the said arbitrators, or any two of them, to certify or award the dissolution of the said partnership and the mode of realising and distributing the assets thereof, and to certify or award which (if either) of the said parties shall be entitled to the business, and upon what terms as to price or otherwise, and to approve of or reject any sureties or security to be proposed or offered by the said parties respectively for the discharge of the debts and liabilities of the said partnership, and to certify or award the execution by the said parties hereto, or either of them, of such deeds or writings as the said arbitrators, or any two of them, shall think proper, for terminating all disputes and differences between the said parties, and closing the affairs of the said partnership, so that such certificate or award be made in writing on or before the day of next, or such further time as the said arbitrators, or any two of them, by writing under their hands, shall, before or after that day, from time to time appoint. AND THAT the said parties respectively shall produce before the said arbitrators, or any two of them, all books, documents, or writings relating to the premises, and shall

Witnesseth.

Appointment
of arbitrators
and umpire.

Parties to pro-
duce books,
&c.

perform and keep the certificate or award of the said arbitrators, or any two of them, and shall not bring any writ of error, nor commence or prosecute any action whatever against the other or against the arbitrators, or any of them, for any matters relating hereto, save for enforcing (if necessary) the said certificate or award.

And give evidence. AND IT IS HEREBY AGREED that the said arbitrators, or any two of them, are empowered and authorised to examine the said parties, or either of them, and all or any persons or person produced as a witness or witnesses by such parties upon oath or otherwise, as they or any of them shall direct.

Power to proceed *ex parte*. AND if either party impede the said arbitrators, or any two of them, from making such certificate or award by affected or wilful delay, or by not attending after reasonable notice, then they may proceed in his absence if they shall think proper so to do.

Award may be made a rule of court. AND IT IS FURTHER AGREED that this present submission may be made a rule of any of Her Majesty's English Courts of Record, and that the costs as between solicitor and client of and incident to the negotiation between the said parties, resulting in this agreement, of this agreement, and of making it a rule of court, of the reference and certificate or award, and of all deeds and writings to be executed by the said parties or either of them, and the expenses of proceeding upon the certificate or award, shall be in the discretion of the said arbitrators, or any two of them [or shall abide the event]. AS WITNESS, &c.

Costs.

Precedent 38. *38. Agreement under Seal declaring the User of Lights to be on Sufferance.*

Parties. AN AGREEMENT made, &c., BETWEEN A.B., of &c., of the one part, and C.D., of &c., of the other part. WHEREAS

Recital of ownership. the said C.D. is the owner of a dwelling house, with a farmyard, garden, and premises thereto belonging,

situate, &c., and the said A.B. is the owner of a house or houses which was or were built in the year 18 , and adjoin and abut on the above-mentioned farmyard and garden of the said C.D., and certain of the windows in the said house or houses of the said A.B. overlook such farmyard and garden. NOW THIS INDENTURE WITNESSETH Witnesseth. that in consideration of the agreements hereinafter contained on the part of the said C.D., the said A.B. doth hereby agree with the said C.D. that the use and enjoyment A.B. to enjoy certain lights on sufferance. for any period, however long, of the said windows in the said house or houses of the said A.B. which overlook the said farmyard and garden of the said C.D. shall not give to or confer upon the said A.B., his heirs or assigns, or his tenants, any claim, right or title to ancient lights; but the same windows or lights shall at all times hereafter be considered as on sufferance only, and be made up and closed by the said A.B. on notice as hereafter mentioned. AND FURTHER that the said A.B. shall and will, so long as the said windows shall be permitted to remain as aforesaid, pay to the said C.D., his heirs or assigns, on the day of in every year the sum of £ as an acknowledgment that the said windows are on sufferance as aforesaid. To pay yearly acknowledgment. AND LASTLY, in case the said C.D., his heirs or assigns, shall at any time be desirous that the said windows should be closed, and shall give notice in writing of such his or their desire to the said A.B., his heirs or assigns, or leave the same at his or their last known place of abode; then the said A.B., his heirs or assigns, shall and will, at his or their own expense, within months after the service of the said notice, build or make up the said windows and effectually close the same. And to close same after notice. AND in consideration of the Qualified agreement by C.D. for quiet enjoyment. agreements hereinbefore contained on the part of the said A.B. the said C.D. doth hereby declare and agree to and with the said A.B. that the said C.D., his heirs or assigns, shall not nor will in any manner obstruct or inter-

fere with the said A.B. or his tenants in the use and enjoyment of the aforesaid windows until he or they shall have given such notice as aforesaid, and the said A.B., his heirs or assigns, shall have refused or omitted to comply with the same. IN WITNESS, &c.

Precedent 39. *Agreement on paying an Execution out of a Dwelling House.*

To A.B., of &c. [*lender*].

Agreement on
paying an exe-
cution out of
a dwelling
house.

IN CONSIDERATION of your, at my request, paying the sum of £ to Mr. Y.Z., the owner of the household furniture and effects in my dwelling house in , under a bill of sale thereof, dated &c., executed by me to him, under which the goods are now in his possession in my said dwelling house (such sum of £ being paid in full by you for the purchase of the same goods), I HEREBY CONSENT to, and authorise you and your agents or servants to enter and remain in my said dwelling house as long as you think proper, and to retain and keep possession of all the said goods purchased by you as aforesaid, and to sell the same on the premises by either public auction or private treaty, it being understood between us that out of the proceeds of the said sale you are to pay all costs, charges, and expenses of every kind, including the usual commission on sale and costs of keeping possession, and repay to yourself the said sum of £ together with £ for interest thereon, as agreed for weeks, and then pay over to me any surplus that may remain in your hands, such sale to take place not earlier than the day of 18 , and not later than the day of 18 .

DATED the day of 18 .

C.D. [*borrower*].

40. *Agreement between Partners that they are jointly interested in a Lease.* Precedent
40.

AN AGREEMENT made, &c., BETWEEN A.B., of &c., of the Parties.
one part, and C.D., of &c., of the other part. WHEREAS Recital of lease
the said C.D. is the owner of a piece of land, with the by one partner
messuages, or dwelling houses and shops, situate on the to the other
side of Street, in aforesaid, and partner.
by an indenture of lease dated &c., and made between
the said C.D. of the one part, and the said A.B. of the
other part, in consideration of the rent and covenants
therein contained, the said C.D. demised the said premises
unto the said A.B., his executors, administrators, and
assigns, for the term of years, to be computed
from the day of 18, with a covenant
for renewal as therein mentioned. AND WHEREAS the And of their
said C.D. and A.B. carry on business as at partnership
aforesaid, in partnership together, and on the and agreement
treaty for the said lease it was agreed that the premises in reference to
thereby demised should be held by the said A.B. during such lease.
the continuance of the said term, as part of the partner-
ship estate of the said partners. NOW THESE PRESENTS Witnesseth.
WITNESS that, in pursuance of such agreement, the said A.B.
hereby declares and admits that the said C.D. is jointly Declaration
interested with him as part of their partnership estate of joint
in the said lease and premises thereby demised, subject interest.
to the rent and covenants thereby reserved and contained.
AND THAT the said A.B. shall be possessed of the said Lessee to be
lease and premises, subject as aforesaid, and of all possessed of
benefits and advantages to be derived therefrom, as a lease as a
trustee for the benefit and on the joint account of the partnership
said C.D. and A.B. as such partners as aforesaid in the asset.
shares in which they are respectively interested in their
said partnership estate. AS WITNESS, &c.

Assignments.

Precedent 41. Absolute Assignment of a Leasehold Dwelling House.

Parties.	THIS INDENTURE made, &c., BETWEEN A.B. of &c. [<i>vendor</i>], of the one part, and C.D., of &c. [<i>purchaser</i>], of the other part.
Recital of lease.	WHEREAS by an indenture of lease, dated, &c., and made between W.X. [<i>lessor</i>], of the one part, and Y.Z. [<i>lessee</i>], of the other part, all that, &c. [<i>parcels</i>], with the appurtenances, and [<i>if so</i>] subject to the exceptions therein mentioned, was demised unto the said Y.Z., his executors, administrators, and assigns, for the term of years from the day of 18 , at the yearly rent of £ , and subject to covenants
Of the erection of a dwelling-house.	by the lessee, and conditions therein contained, AND WHEREAS since the date of the said lease the said Y.Z. erected a messuage or dwelling-house on the said plot of
Vesting of premises in vendor.	land, AND WHEREAS the said premises are now vested in the said A.B. for the residue of the said term of years,
And contract for sale.	AND WHEREAS the said A.B. has agreed with the said C.D. for the sale to him, for the sum of £ , of the premises aforesaid for the residue of the said term,
Witnesseth.	free from incumbrances, NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement, and in
Consideration.	consideration of the sum of £ , this day paid by
Receipt.	the said C.D. to the said A.B. (the receipt whereof the said A.B. doth hereby acknowledge), he, the said A.B.,
Assignment.	doth hereby assign unto the said C.D., his executors, administrators, and assigns, ALL THAT the said plot or
Parcels.	piece of land, hereditaments, and premises comprised in and expressed to be demised by the hereinbefore recited indenture of lease, with the messuage or dwelling-house

and other erections and buildings now erected and standing upon the same plot of land, TOGETHER with all rights, easements, and appurtenances thereto belonging except [*if so*] as in the said lease is excepted). AND all the estate, right, title, term, and interest of him, the said A.B., in and to the same premises, To HOLD the said premises expressed to be hereby assigned, with the appurtenances (except as aforesaid), unto the said C.D., his executors, administrators, and assigns, henceforth for the residue now unexpired of the said term of years, at the rent reserved by and subject to the covenants by the lessee, and conditions contained in the said lease, and henceforth to be paid, performed, and observed. AND the said A.B., for himself, his heirs, executors, and administrators, hereby COVENANTS with the said C.D., his executors, administrators, and assigns, that notwithstanding anything by the said A.B., done, omitted, or knowingly suffered, the hereinbefore recited indenture of lease is now a valid and subsisting lease of the said premises hereinbefore expressed to be hereby assigned, and is nowise void or voidable; AND THAT, notwithstanding any such thing as aforesaid, the rent reserved by and the covenants by the lessee, and conditions contained in the said lease, have been respectively paid, performed, and observed up to the date of these presents; AND THAT, notwithstanding any such thing as aforesaid, he, the said A.B., now hath power to assign all the said premises unto the said C.D., his executors, administrators, and assigns, for the term aforesaid, free from incumbrances; AND THAT all the said premises may be quietly entered into, and during the said term held and enjoyed without any interruption by the said A.B., his executors or administrators, or any person claiming through or in trust for him. AND THAT he, the said A.B., his executors and administrators, and every other person claiming through or in trust for him, will at all

General words.

Habendum.

Covenant by vendor that lease valid.

Rent paid and covenants observed.

For power to assign.

Free from incumbrances.

And for further assurance.

times, at the cost of the said C.D., his executors, administrators, or assigns, execute and do all such assurances and things for further or better assuring all or any of the said premises unto the said C.D., his executors, administrators, and assigns, for the then residue of the said term, and in manner aforesaid as by the said C.D., his executors, administrators, or assigns, shall be reasonably required.

Covenant by purchaser to pay rent and observe covenants. AND the said C.D., for himself, his heirs, executors, and administrators, hereby COVENANTS with the said A.B., his executors and administrators, that he, the said C.D., his executors, administrators, or assigns, will henceforth pay the rent by the said lease reserved, and perform all the covenants by the lessee therein contained, and keep

And indemnify vendor therefrom. the said A.B., his heirs, executors, and administrators, indemnified against all actions, suits, expenses, and claims on account of the nonpayment of the said rent or the breach or non-performance of the said covenants, or any of them. IN WITNESS, &c.

Precedent 42. *Assignment of a Public-house Lease, Licences, and Fixtures.*

Parties. THIS INDENTURE made, &c., BETWEEN A.B., of &c. [*vendor*], of the one part, and C.D. of &c. [*purchaser*], of the other part. WHEREAS by an indenture of lease dated &c., and made between Y.Z. [*lessor*], of the one part, and the said A.B. of the other part, the said Y.Z. demised unto the said A.B. all that, &c. [*parcels*], to hold the same unto the said A.B., his executors, administrators, and assigns, from the day of 18 , for the term of years, thence next ensuing, subject, during such portion of the said term, and until the said premises should be granted and obtain a licence to sell by retail excisable liquors, to the rent of £ per annum, without deduction, and from and after and during the remainder of the said term as should be

Recital of lease.

unexpired at the time of obtaining the said licence to the rent of £ per annum, without deduction (except as therein mentioned), the said yearly rents respectively to be payable by equal quarterly payments in every year on the days therein mentioned, and subject also to the observance and performance of the covenants, conditions, and agreements therein contained; and on the part of the lessee, his executors, administrators, and assigns, to be observed and performed. AND WHEREAS the said A.B. some time since obtained the grant of a licence to sell by retail excisable liquors on the said premises. AND WHEREAS the said A.B. has agreed with the said C.D. for the sale to him of the same premises demised by the said lease, with the licenses attached thereto, and the goodwill of the business of a licensed victualler, carried on by him therein, and the fixtures, chattels, and things herein mentioned for the sum of £ . NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement, and in consideration of the sum of £ , to the said A.B., paid by the said C.D. on or before the execution hereof (the receipt whereof the said A.B. hereby acknowledges), the said A.B. doth hereby assign unto the said C.D., his executors, administrators, and assigns, ALL and singular the premises comprised in and demised by the said indenture of lease, which are now used as a licensed public-house. TOGETHER with the benefit of the ale and spirit licences attached thereto, and the goodwill of the trade carried on therein; and all the tenant's fixtures, fittings, chattels, and things now being in, upon, or about the said premises. AND all the estate and interest of the said A.B. in the premises. To HOLD the premises demised by the said lease, with the licences thereto belonging, unto the said C.D., his executors, administrators, and assigns, for all the unexpired residue of the said term of years, subject to the rent and to the observance

Of grant of licence.

And contract for sale.

Witnesseth.

Consideration.

Receipt.

Assignment.

Parcels.

Habendum.

Covenant by
vendor that
lease valid.

Rent paid and
covenants ob-
served.

For power to
assign free
from incum-
brances.

And for
further assur-
ance.

Covenant by
purchaser to
pay rent and
observe cove-
nants.

and performance of the covenants and conditions in the same lease reserved and contained, and on the lessee's part to be paid, observed, and performed. AND TO HOLD all other the premises hereby assigned unto the said C.D. absolutely. AND the said A.B. for himself, his heirs, executors, and administrators, hereby COVENANTS with the said C.D., his executors, administrators, and assigns, that notwithstanding any act, deed, or thing, by the said A.B. done or knowingly suffered the said lease is now a valid lease, and not void or voidable, and that the rents, covenants, and conditions therein reserved and contained, have on his part been duly paid, observed, or performed, up to the date of these presents. AND THAT, notwithstanding any such thing as aforesaid, the said A.B. now has power to assign all the said premises hereby assigned unto the said C.D., his executors, administrators, and assigns, in manner aforesaid free from incumbrances. AND THAT the same premises shall at all times during the residue of the said term be quietly entered into held and enjoyed by the said C.D., his executors, administrators, or assigns, without any interruption by the said A.B., his executors, or administrators, or any person or persons claiming through him or them. AND THAT the said A.B., his executors and administrators, and every person claiming as aforesaid, shall at all times at the cost of the said C.D., his executors, administrators, or assigns, execute and do every such assurance and thing for further or more perfectly assuring unto the said C.D., his executors, administrators, and assigns, all or any of the said premises as by him or them shall be reasonably required. AND the said C.D., for himself, his heirs, executors, and administrators, hereby COVENANTS with the said A.B., his executors, and administrators, that the said C.D. his executors, administrators, or assigns, will at all times hereafter during the residue of the said term pay the rent reserved by the said lease at the times and in the manner

thereby reserved, and will duly observe and perform the covenants, conditions, and agreements therein contained, and which on the part of the lessee, his executors, administrators, or assigns should be paid, observed, or performed, and keep the said A.B., his heirs, executors, and administrators indemnified from and against all actions, suits, claims, and demands whatever, for, or on account of the non-payment of the said rent, or the non-observance or non-performance of the said conditions or agreements. IN WITNESS, &c.

And indemnify
vendor there-
from.

43. *Assignment of Household Furniture and Effects, in Part Satisfaction of a Judgment Debt.* **Precedent 43.**

THIS INDENTURE made, &c., BETWEEN A.B. of, &c. [*judgment debtor*], of the one part, and C.D., of, &c. [*creditor*], of the other part. WHEREAS the said A.B. is indebted to the said C.D. in the sum of £ , upon a judgment recovered against the said A.B. by the said C.D. in the Queen's Bench Division of Her Majesty's High Court of Justice, on the day of 18 . AND WHEREAS the said A.B., being, as he alleges, at present unable to satisfy the said judgment in full, has proposed to the said C.D. to accept an assignment of the household furniture, effects, and things hereinafter mentioned, in part satisfaction and reduction of the said judgment debt, but without prejudice to the right of the said C.D. to issue execution on the said judgment whenever he shall think proper for any balance that may remain due on the said judgment, with interest as hereinafter mentioned at the time when such execution shall be issued, which proposal the said C.D. has agreed to accept, and the said household furniture, effects, and things have been appraised and valued at the sum of £ , by Mr. Y.Z., of , licensed appraiser. NOW THIS

Parties.

Recital of in-
debtedness.

Inability to
pay and pro-
posal for part
satisfaction.

Witnesseth.

Consideration. INDENTURE WITNESSETH that in consideration of the premises, and of the release of the said A.B. by the said C.D. from the sum of £ , in part satisfaction and discharge of the said judgment debt of £ , hereinafter contained, the said A.B. doth hereby assign unto

Assignment. the said C.D., his executors, administrators, and assigns,

Parcels. ALL and singular the household furniture, fixtures, plate, plated articles, linen, china, glass, printed books and domestic utensils, effects and things specified in the schedule hereunder written. AND all the estate and

Habendum. interest of the said A.B. therein or thereto. To HOLD all and singular the said premises hereinbefore expressed to be hereby assigned unto the said C.D., his executors, administrators, and assigns absolutely. AND the said

Covenant by assignor for power to assign. A.B., for himself, his heirs, executors, and administrators, hereby COVENANTS with the said C.D., his executors, administrators, and assigns, that, notwithstanding anything by the said A.B. done or knowingly suffered, the said A.B. now hath good right and full power and authority to assign the said premises hereinbefore expressed to be hereby assigned in manner aforesaid,

Free from incumbrances and for further assurance. free from incumbrances. AND THAT the said A.B., his heirs, executors, and administrators, and every person having or rightfully claiming any estate, right, title, or interest at law or in equity to the said premises, or any part thereof, through or in trust for him or them, will from time to time, and at all times hereafter, on the request and at the cost of the person or persons requiring the same, execute and do all such further acts, deeds, and assurances in the law for more perfectly assuring all or any of the said premises unto the said C.D., his executors, administrators, and assigns, and enabling him or them to obtain and retain possession of the same, as by him or them shall be reasonably required. AND THIS INDENTURE

Qualified release by assignee. ALSO WITNESSETH that in consideration of the premises, the said C.D. doth hereby release and discharge the said

A.B., his heirs, executors, and administrators, and his and their estates and effects, lands, and tenements, from the sum of £ , parcel of the said judgment debt of £ , but without prejudice, nevertheless, to the right of the said C.D., his executors, administrators, or assigns, to issue execution upon the said judgment whenever he or they shall think proper so to do for any balance that may remain due thereon, with interest as hereinafter mentioned, at the time when such execution may be issued. AND the said A.B., for himself, his heirs, executors, and administrators, hereby COVENANTS and agrees with the said C.D., his executors, administrators, and assigns, that the sum of £ , the balance of the said judgment debt after deducting the said sum of £ , shall bear and be chargeable with interest from the day of , 18 , when the said judgment was entered up to the date when the same shall be fully paid and satisfied at the rate of £ per cent. per annum, and that in any execution which may be issued for recovering the balance of the said judgment debt, it shall be lawful to include interest at the rate aforesaid, in addition to the balance of principal money due on the said judgment, any rule of law to the contrary notwithstanding. IN WITNESS, &c.

Covenant by assignor that balance of debt shall carry interest.

THE SCHEDULE referred to.

44. *Assignment by Creditors of their Debts in Consideration of an Immediate Composition.* **Precedent 44.**

WE the undersigned, being respectively creditors of Parties. A.B., of &c. [debtor], to the amount of the several sums of money placed opposite our respective names or the names of our respective firms in the first column hereunder written, in consideration of the several sums of money placed opposite our respective names or firms in the second column hereunder written, and paid to us

respectively by C.D., of &c. [*purchaser*], on our respectively executing these presents, being after the rate of shillings in the pound upon the amount of our respective debts mentioned in the said first column, and in full for the purchase of such debts, do hereby severally and respectively assign, transfer, and set over unto the said C.D., his executors, administrators, and assigns, **ALL** and every debts and debt, sum and sums of money, now due and owing to us respectively, either in our own right or in copartnership or otherwise, by the said A.B., and which debts and sums are respectively set opposite our respective names or firms in the said first column. **AND** all dividends to be at any time declared, or to become payable to us respectively in respect of our said several debts. **AND** all securities for the same respectively legal or equitable in the said premises. **TOGETHER** with power for the said C.D., his executors, administrators, and assigns, in our names respectively or otherwise, but for his and their own use and benefit, and at his and their risk and costs to sue for, recover, and receive the said debts, sums of money, dividends, and premises, and to sign, seal, and execute good and sufficient releases and discharges for the same respectively in as full and beneficial a manner in all respects as we ourselves respectively could do if this assignment had not been made^(a). To **HOLD** the premises hereinbefore assigned or intended so to be unto the said C.D., his executors, administrators, and assigns, as his and their own property and effects absolutely. **AND** each of us the said creditors for ourselves respectively, and for our respective heirs, executors, administrators, and partnership firms, hereby **COVENANTS** with the said C.D., his executors, administrators, and assigns, that we respectively now have good right and

Assignment.
Parcels.

Power of attorney.

Habendum.

Covenant by creditors for power to assign.

(a) This power of attorney may, under the provisions of the Judicature Act 1873 (36 & 37 Vict. c. 66, sect. 25, sub-sect. 6) be omitted, if written notice of the assignment be given to the debtors.

Attestations.

I. DEEDS.(a)

46. *Common Form.*

Precedent

46.

Common form.

SIGNED, (b) sealed, and delivered by the within [or above] named A.B. [*vendor*], C.D. [*purchaser*], and E.F. [*trustee*] in the presence of, &c.

Y.Z., Witness,
(*Address*),
(*Occupation*).

(a) Under ordinary circumstances a *single* witness is sufficient, though the deed would not be void even without any: (2 Black. Com. 307, 378.) Yet if a power is to be exercised by a deed attested by two witnesses, a deed attested by a single witness will be insufficient: (Sug. Pow. 8th edit. 207.) But the 22 & 23 Vict. c. 35, s. 12, provides that a deed executed after the 13th of August, 1859, in the presence of two or more witnesses in the manner in which deeds are ordinarily executed and attested, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by deed, or by any instrument in writing not testamentary, notwithstanding additional or other form of execution, attestation, or solemnity shall have been required. It is to be observed that if the power prescribes less than the statute, it is sufficient to comply with the terms of the power; but if the power prescribes more than the statute, it is sufficient to comply with the statute: (Woodfall's L. & T., 11th edit., 192.)

(b) The omission of the word *signed* in the attestation to deeds exercising a power required to be exercised by a writing *under hand and seal attested by witnesses*, and the decisions of *Wright v. Wakeford* (4 Taunt. 213), *Doe dem. Mansfield v. Peach* (2 M. & S. 576), &c., rendered useless some scores of deeds, and required an Act of Parliament (the 54 Geo. 3, c. 168) to cure the defect. *Ver. sap.* As to the vexed question whether a deed *must* be signed as well as sealed, see the case of *Cherry v. Heming* (19 L. J. Ex. 63.)

Precedent**47.**By an
attorney.**47. By an Attorney.**

SIGNED, sealed, and delivered as the act and deed of the within [*or above*] named A.B. by C.D., (*a*) his duly-
authorised attorney, in the presence of, &c.

Precedent**48.**By a blind
party.**48. By a Blind Party.**

SIGNED, sealed, and delivered by the within [*or above*] named A.B. (who being blind) the contents of the within [*or above*] written indenture were first audibly and correctly read over to him, when he seemed perfectly to understand the same, in the presence of, &c.

Precedent**49.**By a deaf and
dumb party.**49. By a Deaf and Dumb Party.**

SIGNED, sealed, and delivered by the within [*or above*] named A.B. (who being deaf and dumb, but who could read) the contents of the within [*or above*] written indenture were first read over by him, when he seemed perfectly to understand the same in the presence of, &c.

Precedent**50.**By a marks-
man.**50. By a Marksman.**

SEALED and delivered by the within [*or above*] named A.B., the contents of the within [*or above*] written indenture being first correctly read over to him, when he seemed perfectly to understand the same, and made his mark thereto in the presence of, &c.

(*a*) In executing a deed for the principal, under a power of attorney, the proper way is to sign in the name of the principal (*White v. Oyler*, 6 T. R. 176); but if that be done, it matters not in what form of words such execution is denoted by the signature of the names: (*Wicks v. Black*, 2 East, 142.)

51. *Where Obliterations or Erasures.*

Precedent

51.

SIGNED, sealed, and delivered by the within [or above] named A.B. the words " " and " " [or, Where obliterations or erasures. if long, the words " " to " " inclusive] on the line of the skin having been first obliterated [or, written on erasures] in the presence of, &c.

52. *Where Interlineations.*

Precedent

52.

SIGNED, sealed, and delivered by the within [or above] named A.B. the words " " to " " [or, Where interlineations. if long, the words " " to " " inclusive] between the and lines of the skin having been first interlined in the presence of, &c.

53. *Where Alterations.*

Precedent

53.

SIGNED, sealed, and delivered by the within [or above] named A.B. the word " " and the names " " and " " originally written having Where alterations. been respectively altered throughout to " " and " " in the presence of, &c.

54. *Of a Surrender of Copyholds.*

Precedent

54.

TAKEN and accepted the day and year first-above written by me,

Of a surrender of copyholds.

Y.Z.,

Steward of the said Manor.

Precedent**55. By a Company.****55.**

PASSED under the common seal of the within [or above-]
By a company. named Company (Limited) in the presence of

} Directors.
Secretary.

Precedent**56. Of a Bill of Sale.(a)****56.**

Of a bill of
sale.

SIGNED, sealed, and delivered by the above-named [or
the said] grantor A.B., in my presence, the effect of the
above-written bill of sale having been explained to the
said grantor before his execution thereof by me the
attesting solicitor.(b)

Y.Z.,

A Solicitor of the Supreme Court,
(Address).

II. WILLS.

Precedent**57. Common Form.****57.**

SIGNED [and sealed(c)] by the said A.B. [testator] in
Common form. the presence of us, present at the same time, who at

(a) See 41 & 42 Vict. c. 31, s. 10, sub-sect. 1. Attestation was not
a requisite under the repealed Acts: (*Deffell v. Miles*, 15 L. T. N. S.
293.) Nor as between grantor and grantee is it under the present
Act: (*Davis v. Goodman and another*, 49 L. J. (App.) C. P. 344.)

(b) The foregoing section does not require that in point of fact
the effect of the bill of sale should be explained by the attesting
solicitor to the grantor, but only that the solicitor should state that
he had done so; and the neglect by the solicitor to perform his duty
of giving the explanation does not avoid the bill of sale either as
against the grantor himself, or any other person: (*Ex parte the
National Mercantile Bank, Re Haynes*, 49 L. J. Bkcy. 62.) A
solicitor who is a party cannot also attest: (*Seal v. Claridge* (on
App.) L. J. Weekly Notes, March 26, 1881.)

(c) A power to appoint under hand and seal is not well exercised
by an unsealed will: (*West v. Ray*, Kay, 385; *Collard v. Sampson*,
4 D. M. & G. 224.)

his request in his presence, and in the presence of each other, (a) have hereto subscribed our names as witnesses. (b)

W.X., Witness,
 (Address),
 (Occupation).
 Y.Z., Witness.
 (Address),
 (Occupation).

58. *Where the Testator is Deaf and Dumb.* (c)

**Precedent
58.**

SIGNED by the said A.B. [*testator*] (who is deaf and dumb) as and for his last will and testament after first carefully reading over the contents thereof in the presence of, &c. [*as in preceding form*].

Where testator is deaf and dumb.

(a) It is not necessary that both witnesses should sign in the presence of each other (*Re Webb*, 4 W. R. 92; *Re Allen*, 2 Cur. 331); although it is highly expedient that the attestation should be completed before any person present leaves the room, as a licence in this latter respect generally leads to a violation in some essential particular.

(b) Two or more witnesses who personally take no benefit under the particular will they attest. As to person taking under will attesting codicil, see *Gurney v. Gurney* (24 L. J. Ch. 656); *Tempest v. Tempest* (2 Kay & J. 635), and *Anderson v. Anderson* (41 L. J. Ch. 247). A will may be attested by marksmen (*In the goods of Amiss* 2 Rob. 116.)

(c) If such a testator can neither read nor write, the difficulty of attestation is of course materially increased, but, from the judgment of the late Sir C. Cresswell (*Re Owston*, 10 W. R. 410), it may be gathered that if the instructions for a will are taken by a person habitually conversant with deaf and dumb persons, and explained to the testator by such person before signature and duly attested, probate will be granted without an affidavit of due execution.

**Precedent
59.**Where testa-
tor is blind.**59. Where the Testator is Blind.(a)**

SIGNED by the said A.B. [*testator*] (who is blind) as and for his last will and testament (the contents thereof having been first audibly and correctly read over to him) in the presence of, &c.

**Precedent
60.**Where
another signs
for testator.**60. Where another signs for the Testator.(b)**

SIGNED by the said A.B. [*testator*] as and for his last will and testament in manner following, that is to say, the said A.B. being unable to write [*or incapacitated by illness from writing, or, as the case may be*] his name, I, the undersigned, C.D., at his request and by his direction in his presence wrote his name, and the said A.B. in the presence of us all declared the foregoing to be his last will and testament, and we at his request and by his direction in his presence, and in the presence of each other, have hereto subscribed our names as witnesses.

**Precedent
61.**Where testa-
tor acknow-
ledges will.**61. Where the Testator Acknowledges Will.**

SIGNED by the said A.B.(c) [*testator*], and acknowledged by him as his last will and testament, in the presence of, &c. [*as in Precedent 57, ante, p. 84.*]

(a) Reading over to the testator is not absolutely necessary in the presence of witnesses: (*Longchamp v. Fish*, 2 B. & P. N. R. 415.)

(b) The testator's amanuensis may also be one of the attesting witnesses (*Re Bailey*, 1 Cur. 914; and *Smith v. Roberts*, 1 Rob. 262); but Mr. Barry, in his work on Conveyancing, p. 406, is of opinion that it is undesirable to use a person in the double office, and probably the opinion is a sound one and worthy of attention in practice. Whether or not a person directed by the testator to sign for him can sign by mark is questionable: (see *In the Goods of Jenkins*, 3 Swab. & T. 93; but see now *In the Goods of Enyon*, 42 L. J. P. & M. 52.)

(c) Where the attestation clause was in the testator's own handwriting, and was read over and acknowledged by him in the

62. Where the Testator a Marksman.

**Precedent
62.**

SIGNED AND ACKNOWLEDGED by the said A.B. [*testator*] (he making his mark)(a) as his last will and testament, in the presence of, &c. [*as in Precedent 57, ante, p. 84, adding*], the contents of the said will having been first audibly and correctly read over to him in our presence, when he seemed perfectly to understand the same.

Where testa-
tor a marks-
man.

Authorities.

63. Authority to hold Furniture assigned by a Bill of Sale.

**Precedent
63.**

To A.B., of &c. [*agent*].

I HEREBY authorise and request you to take possession of, and hold and retain as agent for me, the household furniture, effects, and things comprised in and assigned to me absolutely by a certain indenture, dated, &c., and made between Y.Z., of &c. [*assignor*], of the one part and myself of the other part, which said household furniture, effects, and things are now in and upon the premises known as "Villa," in aforesaid. (b)

Authority to
hold furniture
assigned by a
bill of sale.

DATED the day of 18 .
C.D. [*assignee*].

presence of the attesting witnesses, before they subscribed their names, and the testator's name in the attestation clause was the only signature to the will, the court held the will was duly executed: (*In the Goods of Walker*, 2 Swab. & T. 354; and see *Re Casmore*, 20 L. T. Rep. N. S. 497.)

(a) See *In the Goods of Bryce* (2 Cur. 325), where a mark was held sufficient, although the name did not appear.

(b) See *Vicarino v. Hollingsworth* (20 L. T. Rep. N. S. 362).

you think proper to use the same, and in the meantime I declare that the person in whose name the said licences shall be held, shall be possessed thereof in trust for you, and to be disposed of or transferred by him as you shall direct without any further consent or authority from me.(a)

DATED the day of , 18 .
C.D. [*vendor*].

66. Authority to pay Consideration Money to a Solicitor.(b) **Precedent 66.**

To A.B., of &c. [*purchaser's or mortgagee's agent*].

PLEASE pay the purchase money (or mortgage money) of £ , to which I am entitled for the considerations mentioned in the annexed deed to Mr. Y.Z, on my behalf. And this order, and my execution of the said deed and endorsed receipt, shall be your discharge.

Authority to pay consideration money to solicitor.

DATED the day of , 18 .
C.D. [*vendor, or mortgagor*].

67. Authority by Cestui que Trusts to Trustees to postpone Sale.(c) **Precedent 67.**

To A.B. and C.D., of &c. [*trustees*].

WE, the undersigned, E.F. and F.F., his wife (formerly F.H., spinster), G.H., and I.H. [*cestui que trusts*], do hereby, jointly and severally, request and authorise

Authority to trustees to postpone sale.

(a) See note (a) to Precedent 19, *ante*, p. 23.

(b) See *Viney v. Chaplin* (2 De G. & J. 468; 27 L. J. Ch. 434).

(c) It must be borne in mind that trustees and executors are liable to make good losses incurred in consequence of deviating from the terms of their trust, and "family arrangements" should ever be watched with a jealous eye by the trustees' legal adviser; and the more so where some of the *cestui que trusts* are not *sui juris*: (see *Stapilton v. Stapilton*, 2 Lead. Cas. Eq. 684, *et seq.*).

you not to exercise the power of sale given to you by, and contained in a settlement dated on or about, &c., and made between, &c., which power was directed to be exercised on the death of our late mother, H.H., by a sale of the real and personal estate and property comprised in the said settlement, in such manner as the trustees or trustee of the said settlement should think most advisable, and the moneys arising therefrom divided between us, the undersigned and our late brother, A.H., now deceased, who died in or about the month of , 18 , leaving infant children him surviving and our sister, B.H., now a minor of the age of years or thereabouts, and our respective executors, administrators, and assigns in equal shares as tenants in common. AND instead of so selling and dividing the proceeds as before mentioned, we now request and authorise you in consideration of the natural love and affection we have and bear to our father, C.H., the settlor, to pay or permit him to receive the rents and profits of the freehold hereditaments, and to have the use and enjoyment of the household furniture and effects comprised in the said settlement, for the term of his natural life, without requiring any payment or other consideration from him for so doing, or any account of the expenditure thereof. AND we jointly and severally undertake to save you harmless, and keep you indemnified against all loss, costs, damages, and expenses, actions, and suits for so doing, and expressly declare that your having already delayed exercising the said power of sale, and your now acting in accordance with this authority by postponing and not exercising the said power of sale shall not be chargeable against you, or either of you, as a breach of trust, and we further undertake to bear all responsibility in relation to the premises, and to procure the said children of our late brother, the said A.H., as well as our sister, the said B.H., respectively,

or their respective representatives, to sign this or a similar authority on their respectively attaining the age of twenty-one years, and to indemnify and save you, and each of you, harmless from all responsibility in the event of them, or any of them, declining to sign the same. AND we also undertake to execute any deed or other writing you may require for more formally testifying our consent to and carrying into effect the arrangement contemplated by this authority.

DATED the day of , 18 .
 E.F., F.F., G.H., and I.H.
 [Cestui que trusts].

68. *Authority to a Trustee and Executor to Sell.* **Precedent**

68.

To A.B., of &c. [*trustee and executor*].

WE, the undersigned children of C.D., late of &c. [*testator*], deceased, are unanimously of opinion that it is much more just and equitable, and greatly for our respective benefit and advantage, that the &c. [*described property*], mentioned in the will of our said father, which is at present unoccupied, and requires a large expenditure to make it tenantable, should now be sold, and the moneys arising from such sale, after payment of all expenses, equally divided between us, instead of taking our respective chances of being the survivor, and so becoming by the terms of the said will entitled to the entirety thereof absolutely. AND we have agreed and do hereby jointly and severally request and authorise you to advertise the said property for sale, and to sell the same either by public auction or private treaty, subject to such conditions, in such manner, and for such price as you shall think proper, and we undertake to concur with you in the assignment or conveyance thereof to the purchaser, and to execute and do all acts and deeds that may be necessary or be deemed advisable for carrying the sale

Authority to
 trustee, &c.,
 to sell.

into effect. AND we jointly and severally undertake and agree to save you harmless and to keep you indemnified from and against all loss, costs, damages, and expenses, which you may incur, sustain, or be liable unto, by reason of your acceding to our request, and selling the said property, and distributing the moneys arising from such sale. AND after the sale shall be completed, we further undertake on request to execute to you a full and complete release and discharge in respect of the premises, and otherwise by reason of your having acted in accordance with this request.

DATED the day of 18 .

Precedent 69. *Authority by a Wife to Trustees to advance*
69. *Husband Money.(a)*

To A.B. and C.D., of &c. [*trustees*].

Authority to
trustees to
advance hus-
band money.

I HEREBY authorise you to advance and pay to my husband, E.F., upon the security of his personal bond, and to enable him to extend his business, the sum of £ , this day received by you from the trustees and executors of my late father, Y.Z., of &c., deceased, under the said settlement in part payment, and on account of my one th share of the residuary estate of my said late father. AND I request that you will not require any further security than the personal bond of the said E.F. for the repayment of the said sum, but such bond is to bear interest after the rate of £ per cent. per annum.

DATED the day of , 18 .

F.F. [*wife*].

(a) Pursuant to a power contained in a settlement to advance a husband money on the security of his personal bond.

70. *Authority to Distrain for Rent.*

**Precedent
70.**

To A.B. of &c. [*bailiff*] and his assistants.

THESE are to desire and authorise you, each and every of you, together with such person or persons as you shall think proper to take to your assistance, to enter legally in and upon the dwelling house and premises now occupied by Y.Z., situate and being No. Street, in the county of , and there seize and distrain all such goods and effects, household goods, implements of household, plate, linen and furniture, and other effects and things as are in his possession, and as have been within thirty days now last past clandestinely or fraudulently removed from the same premises to avoid being distrained, as well as for the satisfying and discharging the sum of £ , being one quarter's [*or half a year's, or as the case may be*] rent due, and in arrear for the said premises, on the day of last, as for the costs and charges to attend the making of the said distress. AND unless the said rent and charges aforesaid be paid, or the goods to be taken as a distress replevied in five days from the making of such distress, you are, at the expiration of such five days to cause the same and every part thereof to be sold as well for the discharging the said rent aforesaid, as defraying the expenses attending the making of such distress, pursuant to the directions of the statute in such case made and provided; and for your or any of your so doing, this shall be your sufficient warrant and authority. BUT you are hereby expressly prohibited from seizing and distraining any goods or other effects not legally liable to a distress for rent.

DATED the day of 18 .
C.D. [*landlord*].
[*or C.D., by E.F., his agent.*]

Contracts.

Precedent

71.

Parties.

Witnesseth.

Contract for
sale and pur-
chase.

Payment of
purchase-
money.

Possession.

71. Building Contract.

ARTICLES OF CONTRACT made, &c., BETWEEN A.B. and C.D., of &c. [*vendors*], of the one part, and E.F., of &c. [*purchaser*], of the other part. WHEREBY IT IS MUTUALLY AGREED between the said parties hereto as follows:—

1. The said A.B. and C.D. (hereinafter called “the vendors”) shall sell, and the said E.F. (hereinafter called “the purchaser”) shall purchase the piece of land numbered on the vendors’ plan of Blackacre, as the site thereof is delineated and coloured on the general plan deposited in the vendors’ office, and being parcel of the “Blackacre Estate,” belonging to the vendors, and situate, &c., at the price of per square yard.
2. The purchaser shall pay the vendors the whole amount of the said purchase money, and all sums of money advanced or paid by them to him in respect of the buildings to be erected on the said land as hereinafter mentioned, together with interest on such purchase money and advances respectively after the rate and to be calculated as specified in article 15, on the day of 18 , when the purchase is to be completed.
3. The purchaser shall have immediate possession of the said land for the purposes and subject to the conditions in this contract, and all rates, taxes, and other outgoings in respect thereof, shall from the date hereof be paid by the purchaser, all rates, taxes, and outgoings up to this time being cleared by the vendors.

4. The purchaser shall forthwith commence and continuously and without delay proceed with the erection, and within calendar months from the date hereof completely finish fit for habitation, dwelling houses in a proper and workmanlike manner, in every respect to the satisfaction of the vendors or their surveyor, and no building or erection shall be placed upon any part of the said land save the said houses. Houses to be built to satisfaction of vendors.
5. The streets shown on the said plan (one-half in width whereof is comprised in the said plots) shall for ever hereafter be left open and unbuilt upon for the free use and enjoyment of vendors and purchaser for all tenantly purposes in common with others having a right to the same. User of streets.
6. The purchaser shall not erect any dwelling house or outbuilding upon the said land within the distance to the streets shown on the plan approved by the vendors. Portions not to be built on.
7. The purchaser shall pay shillings out of every instalment paid to him pursuant to article 14 as his portion of the surveyor's charge for approving the buildings. Surveyor's charges.
8. Immediately after the completion of the said houses, the purchaser shall properly make and form the parapet with curb-stones, and effectually put in repair the streets opposite the houses so completed, and within calendar months from the time when each street and parapet thereof shall have been so made and formed, take all necessary steps for obtaining the adoption thereof by the local authorities, (a) and until so adopted shall keep the same in good repair. Streets abutting to be put in repair, &c.

(a) As to this, see the General Highway Act (5 & 6 Will. 4, c. 50.)

Cost of repairing
sewers.

9. The purchaser shall on demand pay to the vendors one-half of the cost of repairing and maintaining coextensively with the said land or any part thereof, all main sewers now or hereafter to be made by the vendors in or through any of the said streets. And shall be at liberty (but in a proper and workmanlike manner in all respects) to put into all or any of the main sewers from the buildings to be erected upon the said land, after days' previous notice in writing at least of such intention to put into the same shall have been given to the vendors, who may at all times do all acts necessary for the proper construction, maintenance, repair, or inspection of such main sewers.

Restrictions.

10. No noisome or offensive trade, occupation, or proceeding, nor anything that can or may be deemed a public or private nuisance, annoyance, or inconvenience, or any manufactory of vitriol, glass, copper, brass, iron, or any chemical operation or chemical works, or any school, or the trade or business of a brickmaker, melter of fat, fustian dresser, pipemaker, butcher, tallow chandler, inn-keeper, beershop-keeper, retailer of beer, wine, or spirits, shall be carried on upon the said land, nor shall there be erected thereon any iron or brass forge or foundry, or any furnace, fire engine, or steam engine, or any brewery, blubber house, rosin works, smithy, tanyard, or slaughterhouse.

Conveyance to
contain cove-
nants to such
effect.

11. The conveyance to the purchaser shall contain all such covenants, clauses, and provisions on his part to the purport and effect herein contained as the vendors shall require.

Title.

12. The vendors shall, within days after having been requested, at their own expense, furnish the purchaser with an abstract of their title to the

premises sold, commencing with an indenture dated, &c., with which deduction of title the purchaser shall be satisfied, and shall not require the production of, or investigate or make any objection or requisition in respect of the prior title, whether referred to in any abstracted document or not.

13. The production and inspection of all deeds and evidences not in the vendors' possession, and the procuring and making of all certificates attested, official or other copies, or extracts from any documents, whether required for the verification of the abstract or otherwise, and the getting in of all outstanding legal estates and terms (if any), and of searching for, or obtaining any evidence or information not in the vendors' possession, and all requisitions of title of any description, shall be at the sole expense of the purchaser, who shall also bear the expense of all searches, inquiries, and journeys, which may be required for the above purposes, or any of them. Expense of furnishing evidence.
14. To assist the purchaser in erecting the said houses, the vendors shall from time to time, during the progress of the buildings, and so long as the purchaser shall, on his part, observe and perform the stipulations herein contained, advance and lend to him such moneys as shall from time to time be required for the completion of the said houses, such advances to be made in the amounts, and at the times set forth in the schedule hereunder written, provided that the work therein referred to is approved by the vendors or their surveyor, whose certificate shall be final. It being clearly understood that the total amount of such advances shall not exceed at any one time the sum of £ Advances.

Lien in respect thereof.

15. For all moneys so advanced and for the said purchase money and for all other moneys to become due to the vendors by virtue of this present contract, and the interest thereon respectively, the vendors shall have a lien(a) and charge on all buildings erected upon the said land, and all building materials, and other things brought upon or near the said land for the purpose of being used in or about the erection of such buildings, and such materials shall be considered as immediately attached to or belonging to the said premises, and no part thereof shall be removed by the said purchaser without the previous consent in writing of the vendors or their surveyor, the same being hereby deemed to be the property of the vendors until all moneys due to them under this present contract shall have been fully paid off and discharged by the purchaser.

Insurance.

16. The purchaser shall at all times, so long as any moneys shall be owing to the vendors under this present contract, keep insured all buildings erected or in course of erection for the time being upon the said land against loss or damage by fire in such office as the vendors shall direct, and in a sum sufficient at the least to cover the full amount of all moneys for the time being owing under these presents, and shall duly pay all premiums or other sums necessary for keeping on foot the said insurance, on the first day on which the same respectively ought to be paid, and deliver to the vendors the policy or policies of such insurance, and the receipt for every such payment. And that if default shall be made in keeping the said

(a) See *Brown v. Bateman*, 15 L. T. Rep. N. S. 658; 36 L. J. O. P. 134; *Ex parte Dickin, re Waugh*, 46 L. J. Bk 26; and *Ex parte Meads, re Harrison*, 49, *ibid.* 47.

buildings so insured, it shall be lawful for, but not obligatory upon, the vendors to insure and keep insured the same, or any part thereof, in such a sum as they shall think fit; and all moneys expended by them for that purpose shall either be repaid by the purchaser on demand, with interest as hereinafter mentioned, or at the vendors' option may be deducted by them from the advances to be made to the purchaser.

17. The purchaser shall pay to the vendors interest *Interest.*
after the rate of £ per cent. per annum,
to be calculated from the day of
next on the amount of the said purchase money,
and on all other sums of money owing to the
vendors from the purchaser in respect of this
present contract, whether advanced for insurance
or otherwise, from the time or respective times of
such sums respectively being advanced or paid by
the vendors.
18. On the completion of the said houses to the satis- *Conveyance.*
faction of the vendors or their surveyor within the
said period, and on payment by the purchaser of
the whole purchase money and of all advances
made by the vendors in anywise in respect of the
said houses, with interest on such purchase
money and advances respectively after the rate
and in manner hereinbefore mentioned on the
said day of 18 , the purchaser
shall (provided he shall have duly observed
and performed all and every the stipulations
and agreements on his part herein contained)
be entitled to have a conveyance (at his own
expense) of the plot of land upon which such
houses shall have been so completed and
finished.

Time of the
essence of the
contract, and
proviso for re-
entry.

19. It is hereby declared that time is of the essence of this contract,(a) and that upon breach, neglect, or default, by, or on the part of the purchaser of any of the stipulations or agreements on his part hereinbefore contained, or if he shall become bankrupt, institute any proceedings for liquidation of his affairs by arrangement, or make any assignment or composition, with or for the benefit of creditors, or in case he shall fail to proceed with the execution and completion of the said houses and buildings, or any of them, for the space of days at any one time, or shall make default in payment of all or any of the principal moneys due or to become due to the vendors under this present contract, and the interest thereon respectively, at the expiration of said period of calendar months, then and immediately thereupon, or at any time thereafter,(b) and notwithstanding any previous omissions by or on the part of the vendors to exercise this present power, or any waiver by them of any former breach, neglect, or default, it shall be lawful for the vendors, either by themselves or their agents or servants, into and upon the said land and dwelling houses, or any part thereof, in the name of the whole, to re-enter and to use and pursue all such ways and means, and adopt all such measures as may be necessary or deemed expedient for effecting such entry by force, or otherwise as occasion may require, without the necessity of commencing any action of ejectment, or any other action whatsoever, and to expel, remove, and put out, the said purchaser, and all

(a) See 36 & 37 Vict. c. 66, sect. 25, sub-sect. 7, and Dart's V. P. 5th ed., 420.

(b) As to this, see *Walker and another v. London and North-Western Railway Company*, 36 L. T. Rep. N. S. 53.

other occupiers of the premises, and to seize, take, and retain to, and for their own use and benefit all buildings, improvements, building materials, and other things for the time being thereon, and either to retain the same for their own absolute use and benefit, freed and discharged from all right, claims, and demands of the purchaser in respect thereof or in any wise in relation thereto(a), or to sell the same or any part thereof by public auction or private contract, and to retain the produce of such sale or sales for their absolute use, and to execute all such assurances as may be necessary for carrying into effect any such sale. And upon any sale purporting to be made under this clause, the purchaser shall not be bound or concerned to see or inquire whether any of the cases mentioned herein as authorising a sale has happened, but upon such re-entry as aforesaid this present agreement, and every clause, matter, or thing herein contained, shall cease and be void both at law and in equity, and the purchaser shall not be entitled to any compensation or equivalent whatsoever in respect thereof.

20. Lastly, that the heirs, executors, and administrators Definitions. of the vendors, and the heirs, executors, administrators, and assigns of the purchaser shall be bound by and entitled to the benefit of this present contract, and the stipulations and agreements herein contained in like manner as if they had been respectively named herein next after the words "vendors" and "purchaser" respectively throughout as far as the same will admit, and unless the context or the nature of the case may require a different construction. AS WITNESS, &c.

THE SCHEDULE referred to.

(a) See, however, *Ex parte Jay, re Harrison*, 44 J. P. 409.

**Precedent
72.****72. Contract for the Erection of Dwelling
Houses.**

Parties.	AN AGREEMENT made, &c., BETWEEN A.B., of &c. (who and whose executors and administrators are hereinafter called "the said builder"), of the one part, and C.D., of &c. (who and whose executors, administrators, and assigns are hereinafter called "the said owner"), of the
Recitals.	other part. WHEREAS the said owner is possessed of a piece of ground situate in Street, in the county of upon which he is desirous of erecting dwelling houses and offices according to the elevations, plans, and specifications prepared for that purpose by Y.Z., of &c. [<i>surveyor</i>], under the direction and to the satisfaction of the said Y.Z., or other surveyor, for the time being, of the said owner, which said elevation, plans, and specification, are marked with the figures 1, 2, 3, 4, and 5, and signed by the said builder and owner respectively. AND WHEREAS the said builder has proposed to erect and complete the said dwelling houses and offices, and to make and execute all other works specified in the said elevation, plans, and specification within the time hereinafter limited for that purpose, and according to the stipulations and agreements hereinafter contained for the sum of £ , which proposal the said owner hath agreed to accept.
Witnesseth.	NOW THESE PRESENTS WITNESS that each of them, the said builder and owner, doth hereby agree, the one with the other of them, as follows:—
Agreement to build.	1. That the said builder shall, at his own costs and charges, within days from the date hereof, commence, and duly and regularly proceed to erect and complete in the most substantial and workmanlike manner, with all proper and necessary materials, workmanship, and labour of the best kinds in every respect upon the said piece

of ground, dwelling houses, and offices behind the same, with the appurtenances and all other works, matters, and things mentioned and specified in the said elevation, plans, and specification, under the direction and to the satisfaction of the said Y.Z., or other surveyor for the time being of the said owner, and for that purpose shall find and provide all proper and necessary materials, tools, scaffolding, cartage, cordage, and other implements and machinery, and shall make good all damage which may be occasioned either to the said dwelling houses, offices, and works, or any of them, or to adjoining buildings by the execution of the same works, or any of them, and shall cleanse all bogholes, drains, and cesspools in or about the premises, and cart and clear away at such times and in such manner as shall or may be directed, by the said Y.Z., or other surveyor as aforesaid, all surplus earth and waste or useless materials, implements, and machinery which may from time to time remain during the execution of the same works, or at the completion thereof. And also shall pay and discharge all fees now due or hereafter to become due to the district surveyor or surveyors in respect of the premises. and shall indemnify the said owner of and from the same fees, and all claims and demands on account thereof, and shall, at his own costs and charges, from time to time until the said dwelling houses, offices, and works be erected and completed, and the said owner shall take possession of the premises, insure, or cause to be insured, in some office of insurance in the name of the said owner, all and singular the erections and buildings for the time being standing on the said piece of land to the full value thereof, and shall

deliver the policy to the said owner, and shall produce to him the receipts for the premiums and duty attending such insurance from time to time, when requested so to do, and that in case of fire all moneys recovered by virtue of such insurance shall forthwith be applied in reinstating the premises under the direction and to the approbation of the said Y.Z. or other surveyor as aforesaid.

Time and
penalty.

2. That the said builder shall complete, make, and execute all and singular the said dwelling houses, offices, and other works in manner aforesaid, and according to the true intent and meaning of these presents before the day of , 18 . And that in default thereof the said builder shall pay to the said owner the sum of £ for every week, and at the like rate for any less period than a week, during which the said dwelling houses, offices, and works, or any of them, shall remain unfinished after the said day of 18 , which sums may be recovered as liquidated damages, or may be deducted from the sums payable to the said builder under this agreement. Provided always that if the delay arise through or be caused by the said owner or his surveyor, or through the requiring any extra or additional work, the said builder shall be allowed to have such additional time for finishing the said buildings and works beyond the said day before fixed as shall have been lost through the delay occasioned by the said owner or his surveyor as aforesaid, or have been necessarily consumed in the performance of such extra or additional work, and the said payments for delay shall not become payable until after the expiration of such additional time or times.

3. That in case the said Y.Z., or other surveyor as ^{Surveyor's} aforesaid, shall be dissatisfied with the conduct of ^{powers.} any workman employed by the said builder in the said works, or with any materials used or brought upon the said premises for the purpose of being used in the said works, and shall give notice in writing thereof under his hand to the said builder, then he shall forthwith discharge such workman from the said works, and remove the said materials, and that in case the said builder shall not in the judgment of the said Y.Z., or other surveyor as aforesaid, employ a sufficient number of workmen in the execution of the said works, or have on the premises a sufficient quantity of materials, tools, or implements of proper quality for the said works; and the said Y.Z., or other surveyor as aforesaid, shall, by writing under his hand, require the said builder to employ an additional number of workmen, or bring upon the premises an additional quantity of materials, tools, or implements, of proper quality, and shall specify in such notice the number and description of additional workmen to be employed, and the quantity and description of additional materials, tools or implements to be supplied, the said builder shall forthwith employ in the said works such additional number of workmen, and shall forthwith bring upon the premises such additional quantity of materials, tools, or implements for the said works, and that in case he shall refuse or neglect for the space of days to comply with such notice or request, it shall be lawful for the said Y.Z. or other surveyor as aforesaid, to dismiss and discharge the said builder from the further execution of the said works, and for the said

owner to employ some other person to complete the same.

Owner to make deductions in certain events.

4. That in such case the sum agreed to be paid to such other person to complete the said works (such sum being approved by the said Y.Z. or other surveyor as aforesaid) shall be deducted from the said sum of £ , and the balance, after making any other deductions which the said owner shall be entitled to make under this agreement, shall be paid by the said owner to the said builder in full for the work done by him at the expiration of months after the said buildings shall be completely finished in every respect according to the true intent and meaning of these presents.

Materials to become property of owner.

5. That all materials brought upon the said piece of land for the purpose of being used in the said buildings, except such as shall be disapproved of by the said Y.Z., or other surveyor as aforesaid, shall immediately they shall be brought upon the said premises become the property of the said owner, and shall be used in the said works.

Payments.

6. That the said owner shall pay to the said builder for the said works the said sum of £ in manner following, that is to say, a first instalment equal to £ per cent. on the actual net cost of all works then executed within days after the said Y.Z., or other surveyor as aforesaid, shall in writing certify (a) that the ground has been excavated to the required depth,

(a) See *Batterbury v. Vyse* (32 L. J. Ex. 177), as to when action as against employer may be maintained if certificate improperly withheld, and as against architect personally *Ludbrook v. Barrett* (36 L. T. Rep. N. S. 616). See also as regards the latter action *Pasley v. Freeman* (3 T. R. 51) and *Lumley v. Gye* (2 E. & B. 216).

the brick walls, as well party and inside as retaining walls, built to receive the ground floor joists, and the joists of the ground floor have been laid in their places, and all minor works up to that period completed. A second instalment equal to £ per cent. on the actual net cost of all further work then executed (excluding the cost on which the previous instalment shall have become payable) within days after the said surveyor shall in writing certify that the second floor joists are all laid in their places, all main walls, party and otherwise, built up to height of second floor, and all minor works necessary for that portion of the work performed. A third instalment equal to £ per cent. on the net actual cost of all further work then executed (excluding the cost of that part of the works in respect of which instalments shall have previously become payable) within days after the surveyor shall in writing certify that the third floor joists have been laid, and all main walls erected to height of third floor, and all minor works up to that point completed. A fourth instalment equal to £ per cent. on the actual net cost of all further works then executed (excluding the cost of that part of the works in respect of which instalments shall have previously become payable) within days after the said surveyor shall certify in writing that all roof timbers have been laid in their places ready for slating, and all outside walls completed exclusive of coping. A fifth instalment equal to £ per cent. on the actual net cost of all further work then executed (excluding the costs of the works in respect of which instalments shall have previously become payable) within days after the said sur-

veyor shall in writing certify that all slating has been completed, all flooring boards laid, and that the walls have received their first coat of plaster. A sixth instalment equal to the full amount of the actual net cost of all further work then executed (exclusive of the cost of the works in respect of which instalments shall have previously become payable) within days after the said surveyor shall certify in writing that all doors and windows are constructed and fixed (including glazing), and all walls finished with plaster, and all chimney pieces, grates, and ranges are fixed, and the balance of the said sum of £ , after deducting the sums which the said owner shall be entitled to deduct under this contract, and except the sum of £ per cent. on the entire contract price which shall be retained by the said owner for calendar months after possession of the buildings shall be given to him, shall be paid within days after the said surveyor shall in writing certify that the remaining works specified herein have been fully completed and finished according to this contract, and possession of the premises so completed delivered to the said owner: and out of the said sum of £ per cent. shall be made good all breakage or defects in any wise occurring by the settling of walls or otherwise, howsoever occurring, within calendar months after delivery of possession to the said owner, and the balance shall be paid to the said builder any deficiency to be paid to the said owner by the said builder. And it is declared that the amount of the net cost of works on which the before-mentioned instalments shall be payable shall be the net cost of materials and labour

which shall for the time being have been actually used and employed in the said works, and shall be ascertained and fixed by the said Y.Z., or other surveyor as aforesaid, on an examination of the accounts of the said builder in respect thereof, for which purpose the said builder hereby agrees to keep two books, one showing the true net amounts paid for labour, and the other the quantity and net prices of the materials used. And the said owner and Y.Z., or other surveyor as aforesaid, shall at all times have free access to such books, and to all other books, invoices, papers, and documents of the said builder as the said owner or the said Y.Z., or other surveyor as aforesaid, shall require, to ascertain such costs, and in default thereof the said Y.Z., or other surveyor as aforesaid, shall be at liberty to withhold his certificate until the same shall be produced and found accurate in every respect; and the said builder shall produce for examination all such books, papers, and documents to the said owner and Y.Z., or other surveyor as aforesaid, whenever requested so to do; and at all times furnish such true and accurate information in reference thereto as shall be required.

7. That if the said owner shall at any time or times be *Additions.* desirous of making any alterations or additions in the erection or execution of the said dwelling houses, offices, and other works, then and in such case the said builder shall erect, complete, make, and execute the said dwelling houses, offices, and other works, with such alterations and additions as the said owner, or the said Y.Z., or other surveyor as aforesaid, shall from time to time direct in writing. And the sum or sums of money to be paid or allowed between the said parties in

respect of such alterations and additions shall be settled and ascertained by the said Y.Z., or other surveyor as aforesaid, whose determination shall be final; but it is agreed that in settling and ascertaining the said sum or sums of money, the said Y.Z. or other surveyor as aforesaid, shall not include any charge for day work unless an account thereof shall have been delivered to the said owner, or to the said Y.Z. or other surveyor as aforesaid, at the end of the week in which the same shall have been performed, and that no such alterations or additions shall release the said builder from the observance and performance of the agreements herein contained on his part, to be observed and performed so far as relates to the other parts of the said dwelling houses, offices, and works, but that the same agreements shall in all respects be observed and performed in like manner as if no such alterations or additions had been directed.

Provision in
case of sur-
veyor's death.

8. That if the said Y.Z. shall die or cease to act as the surveyor of the said owner, and the said builder shall be dissatisfied with the surveyor for the time being of the said owner, then it shall be lawful for the said builder, at his own expense, to employ a surveyor on his behalf in the adjustment of the accounts to act with the surveyor for the time being of the said owner. And in case of disagreement between such surveyors, they shall be at liberty to appoint a third, and they or any two of them shall and may exercise all the powers and discretions which the said Y.Z. could or might have exercised under or by virtue of these presents, if he had lived or continued to act as the surveyor of the said owner; but it is agreed that if the said builder shall employ a surveyor on

his behalf, he shall be nominated within days after the said builder be informed of the surveyor for the time being appointed by the said owner, to whom notice in writing shall forthwith be given of such nomination. AS WITNESS, &c.

73. *Contract with a Sub-Contractor.*

**Precedent
73.**

To A.B., of &c. [*contractor*].

IN CONSIDERATION of your accepting my estimate of £ for the plumber's work at the dwelling houses you are now erecting for Mr. Y.Z. at , I UNDERTAKE AND AGREE, within the time mentioned in your contract with the proprietor, to find all necessary materials and to execute the plumber's work faithfully and in every respect according to the plans and specifications, copies whereof have been submitted to and are now signed by me, and to save you harmless against all loss, costs, damages, or expenses to be sustained by you by reason of any delay or other breach of this contract on my part. AND in case I shall at any time make default in duly proceeding with the said work faithfully, and to the satisfaction of the proprietor's surveyor, of which default the said surveyor is to be the sole judge, I empower you, upon notice from him, to employ such other contractor or workmen, and to supply such materials as may be necessary to finish or complete the work in respect of which I shall make such default, and to deduct the cost thereof, and all loss you may sustain, or be liable to by such my default, from the amount (if any) which shall be payable to me under this agreement; and, if the same shall be insufficient, I agree to pay to you on demand the amount of such deficiency, and all costs to be sustained by you in recovering the same.

DATED the day of , 18 .

C.D. [*sub-contractor*].

Precedent**74.****74. Contract for altering Premises.**

Contract for
altering pre-
mises.

To A.B., of &c. [*proprietor*].

IN CONSIDERATION of the sum of £ to be paid by you to me as follows, viz., £ , portion thereof in days from the commencement of the work, or as soon afterwards as work to the value of £ shall be executed and the balance thereof on the work being completely finished in every respect to your satisfaction, or to that of your surveyor, I HEREBY UNDERTAKE AND AGREE at once to commence, and duly and regularly proceed every lawful day, with a sufficient number of workmen to execute and finish (and have all rubbish and other waste cleared away), on or before the day of 18 , with the best materials of their respective kinds, and in a good and workmanlike manner, the whole of the excavating, building, and other works mentioned or contained or to be reasonably inferred from, although not specified in, the specification hereto annexed. AND in accordance therewith I also agree to be responsible(a) for any accident or mishap that may occur in the execution of such works, and to remedy and repair the same at my own expense, and generally to save you harmless against all loss, costs, damages, and expenses you may sustain by reason of any delay for breach of this contract; and in the event of the said work not being completed and finished on the said day of , 18 , I will pay to you £ per day for each day thereafter during which the same shall remain unfinished or uncompleted, until completion, as ascertained and liquidated damages by reason of such delay and not by way of penalty; and I hereby authorise

(a) This will be inferred unless the parties stand in the position of master and servant; for a person who employs another to do a lawful act is presumed to employ him to do it in a lawful and reasonable manner: (*Butler v. Hunter*, 31 L. J. Ex. 214.)

you to retain the said £ per day out of money that may be payable to me. AND in case I shall at any time make default in duly proceeding with the said work every lawful day, faithfully, and to your satisfaction, or that of your surveyor, of which default he shall be sole judge, I empower you to employ such other contractor or workmen to supply, &c. [as in Precedent 73, *ante*, p. 111]. I FURTHER AGREE that no extras shall be charged to you or paid for, except on the written order of yourself or your surveyor, and any extra works ordered are not to be deemed a breach of this contract, but an extension of time is to be allowed to me beyond the said day of , 18 , at the rate of one day for every £ of extra work.

DATED the day of , 18 .
C.D. [*contractor*].

75. *Contract for pulling down Premises.*

**Precedent
75.**

To A.B., of &c. [*proprietor*].

IN CONSIDERATION of £ , and also in consideration of your giving up to me, free of charge, all the old materials (except the grates and mantel pieces) in, upon, or about the messuage and premises situate, and being No. in Street, , and belonging to you, and now about to be pulled down, I HEREBY UNDERTAKE AND AGREE forthwith to commence, and duly and regularly proceed every working day, with such a number of workmen, horses, and carts as can conveniently and properly be employed on the work, and as may be directed by your surveyor, and carefully pull down, remove, and clear away the said messuage and buildings belonging thereto to the foundations thereof, and daily cart away such parts thereof as may be pulled down; and I will not allow any part thereof to accumulate on the land nor in the street, so as to cause any obstruction.

Contract for
pulling down
premises.

AND I UNDERTAKE to have all works in and about the same completed, and all the old materials, rubbish, and other waste caused by the said works, finally cleared and carted away and the foundations laid entirely bare and excavated to such a depth as your surveyor may reasonably direct for the foundations of the new building, before the day of , 18 . AND I ALSO UNDERTAKE at my own expense forthwith to erect a barricade or hoarding, inclosing the frontage to Street of the said messuage and buildings, not less than feet in height, and to be fixed and attached to substantial posts or holdfasts, nevertheless to be constructed as to part thereof, as to be removable when required, and as may be directed by your surveyor, such hoarding to be erected and completed in a workmanlike manner and to the satisfaction of the Borough Surveyor [*or other officer of local authority*]. I AGREE to use the utmost care in the performance of the works, and not to cause any damage or injury to adjoining properties. AND, whenever it may be necessary, I undertake properly and effectually to shore up and support adjacent buildings in any wise dependent for support upon the messuage and premises now to be pulled down; such shores or other supports to be provided and set up by me, at my own expense, and to be removed by me when your surveyor shall certify to me that such support is no longer necessary by reason of the support to be given by the new buildings. AND I agree and bind myself to be personally responsible for any accident, &c. [*undertaking to answer for damage, and authority to complete work as in Precedents 73 and 74, ante, pp. 111 and 112*]. AND IT IS AGREED that you are to pay me the said £ within months after I shall procure and deliver to you the certificate of your surveyor that the works have been done and materials and rubbish cleared away faithfully and according to this contract to his satisfaction, and in case

any difference or dispute shall arise between us, the same shall be referred to such surveyor, whose decision in the matter shall be final and binding without appeal.

DATED the day of , 18 .
C.D. [*contractor*].

Declarations of Trust.^(a)

76. Declaration of a Person's Name being used in Trust for another. Precedent 76.

WHEREAS by a surrender acknowledged on the day of 18 , by A.B. and C.D., of &c. Declaration of
user of name.
in consideration of £ therein mentioned to be paid by me, the undersigned E.F., of &c. [*trustee*], to the said A.B. and C.D., they the said A.B. and C.D. surrendered a piece of land and dwelling house, situate in , unto and to the use of me the said E.F., according to the custom of the manor of . Now I, the said E.F., do hereby acknowledge and declare that the said sum of £ was the proper money of Y.Z., of &c. [*cestui que trust*], and that my name was made use of in the said surrender, and in the deed of covenants relating to the said land and dwelling house as a trustee only for the said Y.Z. AND THAT I will, whenever required by the said Y.Z., and at his expense, surrender the hereditaments and premises to him and his heirs, or as he or they may direct. As witness, &c.
E.F. [*trustee*].

(a) Declarations of trust of freehold, copyhold, or leasehold land, &c., are required by the Statute of Frauds to be evidenced by some writing, signed by the party declaring the same. *Aliter* if money, even though secured on real estate, or of chattels personal: (1 Sp. 497, 498; 2 Sp. 19 *et seq.* and 897; *Peckham v. Taylor*, 31 Beav. 250.)

**Precedent
77.****77. Declaration as to Shares in a British Ship
being held in Trust.(a)**

To A.B., of &c. [*cestui que trust*].

Declaration as
to shares in
ship.

I HEREBY acknowledge and declare that you have paid and provided _____ parts of the purchase-money and outfit of the barque _____ of _____ the official number of which vessel is _____, and the bill of sale whereof, Mr. Y.Z. [*vendor*], has been made out in my name alone as purchaser, and dated, &c., and duly registered at _____. AND I DECLARE that I will hold and stand possessed of in trust as you may direct _____ equal _____ parts or shares of the entirety of the said vessel and her freight and earnings, and that I will on request account for the same, and at any time transfer the said _____ parts or shares to you, or to any person or persons you may appoint. AND I UNDERTAKE to account in accordance with this memorandum for the like share of the moneys arising from any insurance of the said vessel in case of loss.

DATED the _____ day of _____ 18 _____.
C.D. [*trustee*].

**Precedent
78.****78. Declaration by an Executor of Pilot-boat
Shares being held in Trust for himself and
Co-executors.**

To A.B. and C.D., of &c. [*co-executors*].

The like of
pilot-boat.

I HEREBY acknowledge and declare that the shares in the No. _____ pilot boat _____ of _____,

(a) No notice of any trust, express, implied, or constructive shall be entered in the register or receivable by the registrar (17 & 18 Vict. c. 104, s. 43). The effect of this provision is to recognise the existence of unregistered interests in British ships and registered ownerships in trust for partnerships, and persons not named on the register, thus making the registered owner personally responsible for breach of trust in equity.

recently transferred to me and now standing in my name alone in the registry of that boat are the property of the estate of Y.Z., late of &c., deceased, [*testator*], and that I am possessed thereof in trust for you conjointly with myself, as executor and executors of the said will, upon and for the trusts, intents, and purposes of and in the said will expressed and declared of and concerning the same. AND I UNDERTAKE, from time to time, to account for and pay over to the persons entitled thereto all proceeds to be received by me in respect of the ownership of the said shares as and when received, and that I will at any time, upon request, transfer the said shares and deal with the same as you may direct. AND I DECLARE that I have no title to, or interest in, such shares, except as a trustee for you and except my interest as one of the children of the said testator entitled to a distributive share with my brothers and sisters under the said will.

DATED the day of 18 .
E.F. [co-executor].

79. Declaration by a Mortgagee of Mortgage Money being Trust Money.

**Precedent
79.**

I HEREBY acknowledge and declare that the principal sum of £ _____, mentioned in a certain indenture of mortgage, bearing date, &c., and made between, &c., which sum is expressed therein to have been lent and paid by me to the said A.B. [*mortgagor*], was not, in fact, money belonging to me, but the said sum of £ _____ formed part of the estate of Y.Z., late of &c., deceased.

Declaration of
mortgage
money being
trust money.

DATED the day of 18 .
C.D. [mortgagee].

Equitable Mortgages.

Precedent 80. *80. Equitable Mortgage of Interest under Contract to secure existing Debt and future Advances.*

Parties.	AN AGREEMENT made, &c., BETWEEN A.B., of &c. [<i>mortgagor</i>], of the one part, and C.D., of &c. [<i>mortgagee</i>], of the other part. WHEREAS by an agreement dated, &c., and made between Y.Z. [<i>vendor</i>], of the one part, and the said A.B. of the other part, the said Y.Z. agreed to sell to the said A.B. at the price of £ and [<i>if so</i>] subject to all reservations, restrictions, and agreements, affecting the same, All, &c. [<i>parcels from contract</i>]. And it was thereby agreed that the said A.B. should forthwith commence and proceed with all expedition to complete the erection on the said land of messuages or dwelling houses, and that the said Y.Z. should advance to him the sum of £ for each house to enable him
Recital of contract.	
Indebtedness.	to complete the same. AND WHEREAS the said A.B. is indebted to the said C.D. in the sum of £ , or thereabouts, for sold and delivered by the said C.D. to the said A.B. to enable him to proceed with and complete the said messuages or dwelling houses as the said A.B. doth hereby acknowledge, and he may become further indebted to the said C.D. in respect of the same messuages or dwelling houses. AND WHEREAS the said C.D. having required security for the said sum of £ , and such further sums as the said A.B. may become indebted to him, the said A.B. has agreed to give security for the same, and interest in manner
And agreement for security.	
Witnesseth.	hereinafter appearing. IT IS WITNESSED that in pur-

suance of the said agreement, and in consideration of the premises, the said A.B. doth hereby promise and agree to and with the said C.D., his executors, administrators, and assigns, that the said A.B., his executors, or administrators, shall and will pay on demand unto the said C.D., his executors, administrators, or assigns, the said sum of £ , together with all other sums which may be owing at the time of such demand to the said C.D., his executors, administrators, or assigns, upon any account whatever relating to the said messuages or dwelling houses with interest thereon, after the rate of £ per cent. per annum to be computed as to the said sum of £ , from the date hereof until payment, and as to any other sum or sums from the date of the same, being respectively advanced or becoming due in cash until payment. Consideration. Agreement for payment of debt further advances and interest. AND FOR THE CONSIDERATION Charge. aforesaid, the said A.B. doth hereby charge the said piece of land messuages, or dwelling houses hereinbefore mentioned, AND all his estate and interest Parcels. therein; AND all the benefit and advantage of him, the said A.B., under the said recited agreement of, &c., with the payment of the said sum of £ ; and further sums (if any), AND DOTH DECLARE that these presents shall operate as a good equitable security to the said C.D., his executors, administrators, and assigns for the said sums and interest. Declaration that the premises shall be a good security. AND FURTHER that the said Agreement to execute legal mortgage. A.B., his executors or administrators shall and will, on request, execute and deliver to the said C.D., his executors, administrators, or assigns, a legal mortgage of the said premises, and such mortgage shall be prepared by the solicitor of the said C.D., at the expense of the said A.B., and shall contain a covenant for payment of the said sum of £ , and interest and such further sums and interest on demand, and such power of sale and all other usual powers as to the said C.D., his executors, administrators, or assigns, shall require to be

Direction to
vendor in the
event of a sale
by him under
the contract
to pay surplus
moneys to the
mortgagee

Agreement as
to sale or sur-
plus moneys.

inserted therein, having for their object to secure the payment to the said C.D., his executors, administrators, or assigns of the said sum of £ and interest, and such further sums and interest by sale of the said premises, either by public auction or private treaty; and of all expenses to be occasioned thereby, and either subject to, or discharged from, the claims of the said Y.Z., under the said recited agreement. AND IT IS AGREED that in the event of a sale of the said premises by the said Y.Z. under the power in that behalf contained in the said recited agreement before the said legal mortgage shall be executed to the said C.D., his executors, administrators, or assigns, the said A.B. doth hereby direct the said Y.Z. to pay, and hereby empowers the said C.D., his executors, administrators, or assigns, to receive and give a valid discharge for the surplus moneys arising from any such sale, and to adjust and settle all accounts with the said Y.Z. in relation to the said recited agreement; and the moneys arising from the rents and sale of the said premises under the powers in that behalf therein contained. AND IT IS AGREED that in the event of a sale of the said premises by the said C.D., or in the event of the payment to him of the surplus moneys in the hands of the said Y.Z., arising from any sale or otherwise, the said C.D., his executors, administrators, or assigns, shall apply the moneys when received, first in payment of all expenses he or they may be put to in recovering the same, and then in or towards payment of the moneys, and interest due under this agreement, and pay over the balance (if any) to the said A.B., his executors, administrators, or assigns.(a) AS WITNESS, &c.

(a) An agreement, accompanied with a deposit of title deeds, for making a mortgage is subject to a mortgage stamp; but this instrument having once borne the *ad valorem* stamp, the mortgage afterwards executed in pursuance of it is liable only to the stamp applicable to a common deed: (6 Jarm. Conv. 234, note)(a).

81. *Equitable Mortgage by Partners of Premises subject to a prior Legal Mortgage.* **Precedent 81.**

AN AGREEMENT made, &c., BETWEEN A.B. and C.D., of Parties.
&c. [mortgagors], of the one part, and E.F., of &c.

[mortgagees], of the other part. WHEREAS the said A.B. and C.D. are indebted to the said E.F. in the sum of £ Recital of indebtedness.
for money lent and advanced by him to them.

AND WHEREAS the said E.F. having required security for the repayment of the said £ , the said A.B. and C.D. have agreed to give such security for the same with interest as hereinafter appears. Now THESE PRESENTS Witnesseth.

WITNESS, that in pursuance of the said agreement, and in consideration of the sum of £ , so due and owing as aforesaid, the said A.B. and C.D. do hereby promise and agree to and with the said E.F. that the said A.B. and C.D., or the survivor of them, shall and will, upon demand, well and truly pay unto the said E.F. the said sum of £ , with interest thereon, from the day of 18 , after the rate of £ Consideration. Agreement for payment of debt and interest.

per cent. per annum. AND THESE PRESENTS ALSO WITNESS that for the consideration aforesaid the said A.B. and C.D. hereby charge with the repayment of the said sum of £ and interest as aforesaid, ALL that piece of land, &c. [parcels], subject to a mortgage already sub-
sisting thereon for securing £ , and interest, but otherwise free from all charges and incumbrances whatsoever, AND all the estate and interest of the said A.B. and C.D. respectively in the premises. AND the said A.B. and C.D. hereby declare that these presents shall operate as a good equitable security to the said E.F. for the said sum of £ and interest as aforesaid.

AND ALSO that the said A.B. and C.D., or the survivor of them, shall and will, upon request, at their expense, execute to the said E.F. a valid legal mortgage of the premises, and such mortgage shall contain a covenant
Charge. Parcels. Declaration that the premises shall be a good security. Agreement to execute legal mortgage.

Power for mortgagee to let premises and receive rents.

Direction to prior incumbrancer in the event of a sale by him to pay surplus moneys to mortgagees.

Agreement as to surplus moneys.

for payment of the said sum of £ and interest as aforesaid upon demand, and all such powers of sale and other powers as are usually inserted in mortgage deeds and as may be required on behalf of the said E.F., having for their object to secure the repayment of the said sum of £ , with interest as aforesaid, by a sale of the premises either by public auction or private contract, and the payment of all expenses occasioned thereby, and either subject to or discharged from the before-mentioned mortgage security. AND IT IS FURTHER AGREED that until the said legal mortgage shall be given, it shall be lawful for the said E.F. to enter upon the said premises and to let and manage the same, and to receive the rents and profits thereof, and to apply them in like manner as is hereinafter mentioned with regard to the surplus moneys.(a) AND IT IS HEREBY DECLARED that in the event of a sale of the said premises or any part thereof under the said mortgage security, or under any other security to which they shall be subject before the said legal mortgage shall be executed to the said E.F., the said A.B. and C.D. direct the person or persons making such sale to pay, and hereby empower the said E.F. to receive and give effectual discharges for the surplus moneys arising therefrom, and to adjust and settle all accounts in relation to the said mortgage security, and the moneys arising from the rents or sale of the said premises under the powers therein contained, and the said person or persons shall not be required to see to the application, or be in anywise answerable for the misapplication of the moneys mentioned in any such receipt. AND LASTLY it is agreed that the said E.F. shall apply the said surplus moneys when received first in payment of all expenses incurred by him in recovering the same or

(a) The deposit of title deeds is a sufficient authority to the mortgagee to receive the rents: (*Garry v. Sharratt*, 10 B. & C. 717).

otherwise incidental thereto, and then in or towards payment of the said sum of £ and interest as aforesaid, and then pay the balance (if any) to the said A.B. and C.D. as part of their partnership estate. As WITNESS, &c.

82. *Equitable Mortgage by a Mortgagee of Interest under Mortgage, and giving priority.* **Precedent 82.**

To A.B., of &c. [*mortgagee*].

I HEREBY acknowledge that I am indebted to you in the sum of £ for money lent by you to me, and interest thereon, and for securing part whereof with interest at £ per cent. per annum, I have already given to you security by second mortgage on certain properties in , belonging to me. Now IN CONSIDERATION of my said indebtedness, and of your forbearing to realise your said security for calendar months from this date, I AGREE to pay you the said sum of £ and interest thereon at the rate of £ per cent. per annum (in lieu of interest at the rate of £ per cent. per annum) within the said period of calendar months. AND as further security for the due payment thereof I hereby charge ALL my estate and interest under a certain indenture of mortgage dated, &c., and made between Y.Z. of &c. [*mortagor*], of the one part, and myself of the other part, for securing to me the sum of £ and further sums and interest, which indenture contains a prior charge for securing to you from the said Y.Z. (with my concurrence) £ and interest. for the consideration aforesaid I also agree that the sum of £ with interest at the rate of per cent. per annum, from &c., owing to you by the said Y.Z. under a further charge, dated, &c., shall, in addition to the said sum of £ and interest secured

Acknowledgment of indebtedness.

Consideration.

Agreement to pay debt and interest.

a Charge.

Parcels.

Certain charges to have priority.

to you by the said indenture of, &c., take precedence of my said debt and interest, and be a charge prior to my charge on the hereditaments mortgaged by the said Y.Z. AND THAT you shall receive payment in full of all moneys and interest that may be due to you from the said Y.Z., on a final settlement of accounts, before I shall be entitled to receive the said sum of £ and interest, or any part thereof, under the said indenture of mortgage. AND I DECLARE that you shall hold this charge as a good equitable security for the said sum of £ and interest as aforesaid. AND I UNDERTAKE to execute to you upon request any further assurance of my interest under the said indenture of mortgage that you may require.

DATED the day of , 18 .
C.D. [*mortagor*].

Declaration
that the
premises shall
be a good
security.
Undertaking
to execute
legal mort-
gage.

Precedent 83. *83. Equitable Mortgage by a Deposit of Deeds.(a)*

To A.B., of &c. [*mortgagee*].

Deposit of
deeds.

Object of
deposit.

HAVING deposited with you the title deeds (in a box) relating to the Estate in belonging to us as Trustees for the Land Society in pursuance of a resolution of the Society authorising us in this behalf, WE HEREBY DECLARE that the same title deeds are held by you for securing to you the repayment of all moneys which are now owing, or which may hereafter be owing to you by the said Land Society, or by us as Trustees thereof, whether alone or jointly with any other person or persons, or which the said

(a) A memorandum merely stating why title deeds are deposited is not an agreement for a mortgage, and needs not be stamped (*Meek v. Bayliss*, 31 L. J. Ch. 448); neither is a memorandum of the deposit of goods chargeable as a mortgage: (*Attenborough and the Commissioners of Inland Revenue*, 25 L. J. Ex. 22.)

Society may from time to time on any account, or in any way owe or be liable to, or in a position to become liable to pay to you, or which you may be or become liable to pay on the Society's account, whether otherwise secured or not, and notwithstanding time to pay may be given by you to persons liable for the same together with interest thereon, after the rate of £ per cent. per annum.(a) AND in case the moneys hereby intended to be secured with interest as aforesaid shall not be paid within calendar months after demanded, we empower you to sell and dispose of the said estate in such way and for such price as you may think proper, with the discretion and powers of an absolute owner, and to execute transfers on our behalf, and to give receipts which shall discharge purchasers from all liability.(b) Power of sale.

DATED the day of 18 .
C.D., E.F., and G.H. [*mortgagors*].

84. *Equitable Mortgage of Deeds given with a Promissory Note.* Precedent
84.

AN AGREEMENT made, &c., BETWEEN A.B., of &c. Parties.
[*mortgagor*], of the one part, and C.D., of &c. [*mort-
gagee*], of the other part. WHEREAS by a promissory note under the hand of the said A.B., bearing even date herewith, the said A.B. promised to pay unto the said Recital of
promissory
note.

(a) Where a deposit of deeds is accompanied with a memorandum in writing, the kind, and amount of charge intended to be created by the deposit must be ascertained solely by reference to the written document (*Shaw v. Foster*, 42 L. J. Ch. (H.L.) 49.)

(b) The proper remedy for an equitable mortgagee with a deposit of title deeds relating to land is by a decree for foreclosure and not a sale: (*James v. James*, 42 L. J. Ch. 386); *aliter* for a pledgee of chattels who is only entitled in equity to a sale: (*Carter v. Wake*, 46 *ibid.* 841.)

C.D. the sum of £ , with interest thereon, after the rate of £ per cent. per annum from the date thereof, months after the date of the said note, for money lent to the said A.B. by the said C.D. **And agreement for further security.** **AND WHEREAS** it has been agreed between the said parties that, for further securing the payment of the said sum of £ , the said A.B. shall deposit, and he hath accordingly this day deposited, with the said C.D. the title deeds mentioned in the schedule **Witnesseth.** hereto. Now **THESE PRESENTS WITNESS** that, for further and more effectually securing unto the said C.D. the payment of the said sum of £ and interest thereon, after the rate of £ per cent. per annum, to be computed from the date hereof, in case the said note shall not be paid when due, the said A.B., for himself, his executors, and administrators, doth hereby agree **Charge.** and declare with and to the said C.D., his executors, administrators, and assigns, that the said title deeds shall remain a security unto him and them for payment of the said sum of £ and interest as aforesaid, and that until payment thereof it shall be lawful for the said C.D., his executors, administrators, and assigns, **Agreement to execute legal mortgage.** to retain the said deeds. **AND THAT** the said A.B., his executors, and administrators, and all necessary parties, will, whenever thereunto required, at his or their own expense, make and perfect all such acts, deeds, and assurances, as shall be requisite for legally and effectually vesting in the said C.D., his executors, administrators, or assigns, the property comprised in the said deeds, and for enabling him or them to sell the same, and retain out of the proceeds the expenses attending such sale, and the principal moneys and interest intended to be hereby secured. **As witness, &c.**

THE SCHEDULE referred to.

85. *Letter accompanying a deposit of Title Deeds with Bankers for securing Floating Balance of Account.* **Precedent 85.**

To the A.B. Banking Company (Limited).

I HAVE deposited with you the documents mentioned in the schedule hereto, and I charge all my estate and interest which I have now or may have in the property to which these documents or any of them relate, and particularly in property at [description] with the payment of all such sum and sums of money as either alone or jointly with any person or persons whomsoever and in whatever name or firm I now owe and shall at any time or times hereafter owe to you, as bankers or otherwise, together with interest, commission, banking charges, law and other costs, charges and expenses, and this agreement shall be a continuing security notwithstanding any settlement of account or other thing whatsoever. AND I AGREE to execute whenever required by you (but without prejudice to any rights as to sale, or otherwise which may belong to you as equitable mortgages) a legal or formal mortgage by deed of the aforesaid property for further securing such sums or sums as aforesaid; such mortgage to be from and to such persons or corporations, and with such powers of sale and other powers and provisions as your solicitor shall advise. AND I AGREE to pay all costs and expenses of or connected with this agreement or such mortgage and incident thereto and consequent thereon respectively, and I charge the aforesaid property therewith and with interest thereon.

DATED the day of 18 .
C.D. [customer].

THE SCHEDULE referred to.

Precedent 86. *86. Equitable Mortgage by a Publican to a Brewer with whom he Deposits a Copy of his Lease.*

Parties. AN AGREEMENT made, &c., BETWEEN A.B., of &c. [*mortgagor*], of the one part, and C.D. of &c. [*mortgagee*], of the other part. WHEREAS the said A.B. is the lessee under an indenture of lease, dated, &c., of all that licensed public-house and premises, called the “ ”, situate in , now in his own occupation for the residue of a term of years, commencing on the day of 18 , subject to the rent, covenants, and conditions, therein reserved and contained.

Recital of lease. AND WHEREAS the said C.D., at the request of the said A.B., has agreed to lend him the sum of £ , and the said A.B., having proposed to trade with the said C.D. in the way of his business, may become further indebted to the said A.B., and in order to secure the payment of all such moneys with interest, the said C.D. has proposed to deposit the said lease with Y.Z., of &c. [*depository*], to be held for the mutual benefit of lessor and lessee, and the said C.D., and also to charge his interest in the premises comprised in the said lease, as security to the said C.D. AND WHEREAS the said A.B. has also proposed that the said C.D. should draw upon him a bill of exchange for the sum of £ , to bear even date herewith, payable months after date, and to be from time to time renewed in part, as hereinafter mentioned, to which proposals the said C.D. has agreed. NOW THESE PRESENTS WITNESS that in pursuance of the said agreements, and in consideration of £ now lent by the said C.D. to the said A.B. (the receipt whereof he hereby acknowledges), the said parties hereto hereby mutually agree the one with the other of them as follows:—

Agreement for lease proposal to trade with mortgagee and to give security.

And also proposal that mortgagee should draw upon mortgagor for £ .

Witnesseth.

Consideration.

Receipt.

Deposit of copy lease and declaration

1. The said A.B. hereby deposits with the said C.D. a copy of the said lease, and declares that these

presents shall enure as a good equitable mortgage ^{that the pre-} of the premises comprised in such lease, and in an ^{misses shall} agreement endorsed on such lease the said A.B. ^{be a good} doth hereby charge the same premises, and the ^{security.} goodwill in trade, fixtures, furniture, utensils, and effects in the said public-house and hotel called the " , " and the possession thereof as a security for the payment of the said sum of £ and as a continuing security for all such other sum or sums of money, as the said A.B. may from time to time become indebted to the said C.D. upon any account whatsoever, with interest on all the said moneys, at the current rate of interest for the time being, charged by bankers in to customers on overdrawn accounts, such interest to be computed from the date hereof on the said sum of £ , and on all other moneys from the time of the same being advanced or becoming due in cash.

2. The said A.B. shall, upon request, obtain the consent of the lessor and execute and deliver at his own expense to the said C.D. such legal assignment or underlease by way of mortgage of the said leasehold premises with all such powers of sale and other powers as the said C.D. shall require to be inserted therein, and shall also assign to the said C.D. all and singular the articles of furniture, fixtures, utensils, chattels, and effects, in, upon, or belonging to the said public-house, hotel, and premises, and used in or about the same, in carrying on the business thereof. And all the tenant's interest and goodwill in trade of the said A.B. therein, and all the estate and interest of the said A.B., therein or thereto, with such powers of sale and other powers as aforesaid, as a security for the payment of all the moneys

<sup>Mortgagor to
execute legal
mortgage on
request.</sup>

and interest hereinbefore mentioned and agreed to be secured as aforesaid.

And transfer
licences.

3. The said A.B. shall, upon request by the said C.D., sign or procure such signature as shall be necessary to any documents required for transferring the licences belonging to the said public-house and hotel to the said C.D., or to such person as he shall nominate or appoint; and in case of refusal so to do, or of the absence or disability of the said A.B., it shall be lawful for the said C.D., and the said A.B. expressly authorises and empowers the said C.D., to sign and use the name of the transferrer of the said licences to any such documents and all other acts necessary for transferring the said licences.

Declaration
that lease is
valid, that
mortgagor will
pay rent and
observe cove-
nants and in-
demnify mort-
gagee in re-
spect thereof.

4. The said A.B. hereby declares that the said lease and agreement endorsed thereon are a good and subsisting lease and agreement of the premises thereby demised, and that he will duly pay the rent reserved, and observe, perform, and keep the covenants, conditions, and agreements contained in the said lease and agreement, and on the part of the lessee, his executors, administrators, or assigns, to be observed and performed, and save harmless and keep indemnified the said C.D. from all claims, demands, and expenses by reason of any non-payment of the said rent, or non-observance or non-performance of the said covenants, conditions, and agreements of any of them, and will on request produce to the said C.D. the receipts to show that the said rent has from time to time been duly paid.(a)

(a) Though such a clause as this is more frequently than not inserted in agreements accompanying deposits of leases, it is not absolutely necessary, as an equitable mortgagee is not liable in case of non-payment of rent or breach of covenant: (see *Moore v. Gregg*, 2 Phil. 717; *Cox v. Bishop*, 26 L. J. Ch. 389.)

5. The said A.B. shall at his own expense insure from ^{Mortgagor} damage by fire in the sum of £ at the ^{insure.} least, all the insurable fixtures, furniture, and fittings in the said public-house, hotel, and premises, and shall deliver the policy to the said C.D., and so long as any money shall be owing to him he shall pay all premiums of insurance in respect thereof and deliver every receipt for the premium to the said C.D.
6. days before the maturity of the said bill ^{Provisions as} of exchange for £ and also days ^{to renewal} before the maturity of each of the renewed bills ^{bills of ex-} of exchange hereinafter mentioned (except the last ^{change.} thereof), but so long only as the agreements herein contained on the part of the said A.B. shall be well and truly performed, the said bill of exchange shall be from time to time renewed by the said C.D. drawing and the said A.B. accepting other bills of exchange for such amounts, and at such dates as may from time to time be agreed upon, and upon each such renewal the said A.B. shall pay in cash such sum or sums of money as shall be required for the expenses of renewals and bankers' charges, and reduce the amount for which the said bills shall be drawn in such a manner as to pay to the said C.D. in cash, on the renewal of the first and every subsequent bill, £ until the whole amount owing to the said C.D. shall be fully discharged, and on each of the said renewals the said A.B. shall also pay to the said C.D. interest on the said moneys due under this agreement, or so much thereof as shall for the time being remain unpaid, at the rate and to be computed as aforesaid. And in case any default shall be made by the said A.B. in duly making the several payments in this clause mentioned, or any

part thereof, or in effecting and keeping on foot such insurances as aforesaid, the whole amount due to the said C.D. at the happening of such default shall become payable; and the said A.B. doth hereby promise and agree to pay the same upon demand, and the said bills of exchange shall no longer be renewed.

Reassignment
by mortgagee.

7. On all the said bills of exchange interest and expenses being duly paid, and the said sum of £ and interest, and all such other sum or sums as the said A.B. shall become indebted to the said C.D. upon any account whatsoever, and interest as aforesaid, being fully discharged, and on all and singular the agreements herein contained on the part of the said A.B. being well and faithfully performed, the said C.D. shall, at the request and expense of the said A.B., reassign the said premises, and deliver up to him the said copy lease undefaced and uninjured (inevitable accident only excepted).

Mortgagor to
deal exclu-
sively with
mortgagee for
liquors.

8. So long as any moneys shall be owing by the said A.B. to the said C.D., the said A.B. shall not, nor will directly or indirectly, sell or dispose of in the said public-house, hotel, and premises, any cordials, wines, spirits, or spirituous liquors other than such as shall be purchased from the said C.D., provided he shall be willing to supply the same at the price charged to his other customers, and of the like quality; and in case the said A.B. shall commit any breach of this clause, all bills of exchange then running, although the same may not have arrived at maturity, and all interest or other moneys owing by the said A.B. to the said C.D. shall immediately thereupon become payable, and the said A.B. doth hereby promise and agree to pay the same to the said C.D. upon demand,

and the said C.D. shall thenceforth be under no obligation to renew any further bills of exchange whatever. AS WITNESS, &c.(a).

87. *Equitable Further Charge for a present Loan and future Advances.* **Precedent 87.**

MEMORANDUM OF AGREEMENT made, &c., BETWEEN A.B., Parties of &c. [*mortgagor*], of the one part, and C.D. of &c. [*mortgagee*], of the other part. WHEREAS by an agreement dated, &c., the said A.B., in consideration of £ lent and advanced by the said C.D. to him, did thereby charge all that, &c. [*parcels*] in order to secure to the said C.D., his executors, administrators, or assigns, the repayment of the said sum of £ , with interest after the rate of £ per cent. per annum until repaid; and also all costs, charges and expenses of and incidental to that agreement, or which the said C.D., his executors, administrators, or assigns, might incur or be put unto by reason thereof. AND WHEREAS the said A.B., being in further want of £ , requested the said C.D. to lend him the same, which the said C.D. has agreed to do on having the repayment thereof, and of such further sum or sums of money) not exceeding £) as the said A.B. may become indebted to him on any account whatsoever, secured in

(a) There is no doubt that, strictly, these mortgages should (where chattels are concerned) be registered and re-registered under the Bills of Sale Act, 1878 (41 & 42 Vict. c. 31), but in practice this additional security is often purposely declined in deference to the wishes of debtor and creditor, who alike find publicity prejudicial; but, of course, unless instructed by his client to the contrary, the solicitor's duty is to comply with the provisions of the statute. Notice to prior incumbrancers or interested parties is in these cases of vital importance, and should never be neglected. Such notice should always be given in writing, and a duplicate annexed to the security when put away.

Witnesseth. manner hereinafter appearing. Now THIS AGREEMENT
 WITNESSETH that in pursuance of the said arrangement,
 Consideration. and in consideration of £ this day paid by the
 Receipt. said C.D. to the said A.B. (the receipt whereof he hereby
 acknowledges), the said A.B. doth hereby promise and
 Parcels. agree to, and with the said C.D., that ALL the heredita-
 ments and premises comprised in and expressed to be
 charged by the said agreement of, &c., shall be and by
 Further these presents are charged as well with the payment of
 charge. the said sum of £ [present loan] and interest
 thereon after the rate of £ per cent. per annum,
 and such other moneys (if any) as may be advanced by
 or become due to the said C.D., his executors, adminis-
 trators, or assigns from the said A.B., with interest after
 the rate aforesaid from the time or respective times of the
 same being advanced or becoming due, as also with the
 payment of the said sum of £ [past loan] and
 interest now due and to become due for the same. AND
 it is hereby further declared and agreed that all the
 undertakings, powers, and provisions contained in the
 said agreement of &c., shall extend and be applicable so
 as to be an additional security for the payment of the
 said sum of £ , and further sums and interest in
 like manner, and as if such sum and sums had formed
 part of the principal money expressed and intended to be
 secured by the said agreement.(a) AS WITNESS, &c.

Provisions
 contained in
 the prior
 charge to be
 applicable to
 the present
 security.

(a) It must be remembered that, although an equitable mortgage
 suffices, in many cases at a nominal cost, to secure to the satisfaction
 of a prudent lender the repayment of his loan, still there are
 weighty objections to such a security, in the facts that an equitable
 mortgagee cannot recover possession of the land by ejectment, nor
 can he compel payment of the rent from a tenant. Further, he
 may be postponed by a subsequent legal mortgagee without notice :
 (see hereon *Russel v. Russel*, 1 B. C. C. 269; 1 L. C. Eq. 541, and
 notes).

Guaranties.(a)

88. *Guaranty for a Loan.*

**Precedent
88.**

To A.B.,(b) of &c. [*promises*].

IN CONSIDERATION of your becoming one of the sureties Guaranty for a loan. and signing the joint and several promissory note of ourselves and Y.Z. [*borrower*], to the Loan Society in , to be dated on or about the date hereof, for the sum of £ , WE HEREBY JOINTLY AND SEVERALLY UNDERTAKE to pay, or see that the said Y.Z. shall pay, all the instalments of the said Society in respect of the said loan as and when they become due, and to hold you harmless and keep you indemnified against all loss, costs, damages, and expenses to be sustained by you, by reason of your signing the said note at our request.(c)

DATED the day of 18 .
C.D. and E.F. [*promisors*].

(a) Guaranties must be in writing (29 Car. 2, c. 3, s. 4); but the statement of a consideration, although rendered unnecessary by the 19 & 20 Vict. c. 97, s. 3, is more frequently retained than otherwise in every-day practice.

(b) Although the Statute of Frauds merely requires the agreement to be signed by the *party to be charged therewith*, the agreement must contain the names of *both* parties: (*Williams v. Lake*, 29 L. J. Q. B. 1.)

(c) Guaranties are subject to an agreement stamp: (*Glover v. Halkett*, 3 Jur. N.S. 1083; *Wharton v. Watton*, 7 Q. B. 744), unless for payment of goods sold (*see* Precedent 90) to an Industrial Society: (*Warrington v. Furber*, 8 East. 242.)

**Precedent
89.**Guaranty for
payment of
rent.**89. Guaranty for Payment of Rent.**To A.B. and C.D., of &c. [*promisees*].

WE HEREBY jointly and severally undertake and agree, in consideration of your accepting Mr. Y.Z. as tenant of your house, No. , in Street, ; at the yearly rent of £ , payable quarterly, to be responsible to you for the due payment of such rent from time to time as it falls due on each quarter day, and in the event of the said Y.Z. making default or neglecting to pay you such rent that we will pay the same to you upon demand ; and further that this guaranty shall continue in force so long as the said Y.Z. shall remain your tenant, or so long as any money remains due to you on account of such rent.

DATED the day of 18 .
E.F. and G.H. [*promisors*].

**Precedent
90.**Guaranty for
payment of a
debt in re-
spect of goods.**90. Guaranty for Payment of a Debt in respect of
Goods.**To A.B. of &c. [*promisee*].

WHEREAS Mr. Y.Z., of &c. [*debtor*] is indebted to you in the sum of £ , for goods sold and delivered by you to him. NOW I HEREBY UNDERTAKE and agree in consideration of your forbearing to sue him for payment thereof for calendar months from this date, to guarantee to you the due payment at the end of that period of the said sum of £ , with interest thereon after the rate of £ per cent. per annum from this date, in case the said A.B. shall then make default in payment of the same.

DATED the day of 18 ,
C.D. [*promisor*].

**91. Guaranty for the due Performance of a
Manager's Duties.**

**Precedent
91.**

To A.B., of &c. [*promisee*].

IN CONSIDERATION of your appointing Mr. Y.Z. of &c. Guaranty for the due performance of a manager's duties.
[*servant*] to be your manager (a) of the Hotel,
situate at , in , I HEREBY UNDERTAKE, agree, and guarantee to you, that the said Y.Z. shall and will from time to time obey all your orders and directions, and at all times, during his continuance in your service as such manager, faithfully, honestly, diligently, and carefully execute, perform, and discharge the duties pertaining to his office in every respect, to your satisfaction, and keep the cash account, books and papers, belonging to or relating to such employment, or otherwise coming under his care, in a proper and business-like-manner, and shall and will from time to time, and at all times whenever required by you, or any person or persons appointed by you, render a true and just account of all business done, of all moneys received or paid, and of all stock then on hand, in such form as you may desire, and on demand pay over to you or such other person or persons as aforesaid, all sums of money that may from time to time be in his hands, and deliver over to you at any time on request, all stock in trade, and other effects under his control, and in the meantime take proper care of everything entrusted to his charge, and diligently employ himself in your service, and, to the utmost of his skill and knowledge, promote and extend the business, and keep a proper supervision over any other servants that may be employed in the said establishment, and immediately report to you any irregularities or defalcations he may observe or discover. THAT the said Y.Z. shall hold in his own

(a) The nature of the intended service should be accurately described here: (*Lyall v. Higgins*, 4 Q. B. 538; *Norton v. Powell*, 4 M. & G. 42.)

name, but, as a trustee only for you, so long as he shall be in your service, all licences for the sale of ale, beer, wines, spirits, or tobacco, and upon request do all necessary acts for transferring the same to you or to your nominee at any time, and will conduct the business of the said hotel in a proper manner, not permitting any act which may in anywise prejudice or endanger all or any of the said licences, or whereby any fine shall be imposed. THAT he shall not, nor will be, interested in any other business whatever during such service, nor contract any debt or obligation, whereby you may be prejudiced, nor become bail or security for any person whomsoever, nor embezzle, waste, or consume, make away with, obliterate, deface, or in anywise injure, nor permit (when he can prevent) the same to be done by others, any moneys, goods, books, papers, or property entrusted to his care, or coming into his possession, and when his service expires shall desist from interfering in your business, or holding himself out as your manager, and immediately thereupon shall pay and deliver up to you or your appointee, all licences, moneys, securities, books, papers, and property, in his possession or power, belonging to you. AND I FURTHER UNDERTAKE and agree well and sufficiently to save you harmless, and keep you fully indemnified against all losses, charges, damages, and expenses which shall happen or come to you by reason of any act, deed, matter or thing, whatsoever done or omitted to be done by the said Y.Z. in or during his said employment, or after the determination thereof, and I agree that this guaranty shall be a continuing one until all your claims upon me, and the said Y.Z. respectively, shall be fully discharged.(a)

DATED the day of 18 .
C.D. [*promissee*].

(a) As to whether a guaranty is, in the absence of this, or a similar express stipulation, *continuing* or for *one transaction only*,

92. *Guaranty to a Bank.*Precedent
92.

To the A.B. Banking Company (Limited) [*promisees*].

IN CONSIDERATION that you will open a banking account with C.D. and E.F. of &c. [*intended customers*], and make advances to them, and give credit to them by discounting bills or otherwise, I HEREBY GUARANTEE the payment of the balance which may on the closing of such account be or become due to you from the said C.D. and E.F., individually or in partnership with any other person or persons, to the extent of £ .

AND I AGREE that in default of payment of the balance due on the said banking account by the said C.D. and E.F., you shall be at liberty, if you shall think fit, to receive and place to the credit of such account all such moneys, whether in the shape of payments, dividends, or otherwise, as may be recovered from the said C.D. and E.F., or from their estate, or from any collateral securities, and after giving credit for the same the balance that may then remain shall be recoverable under this guaranty, and any liabilities you shall be under by reason of your having put your names to any bills or in any way guaranteed the same for the said C.D. and E.F., may be reckoned as part of such balance notwithstanding such liabilities may be outstanding at the closing of the account. AND this guaranty is to extend

Guaranty to a
bank.

see *Martin v. Wright* (6 Q. B. 917), *Mayer v. Isaac* (6 M. & W. 605), *Johnson v. Nicholls* (1 C. B. 251), *Brown v. Bachelor* (25 L. J. Ex. 299), *Solvency Mutual Guarantee Society v. York* (27 L. J. Ex. 487), *Bingham v. Corbitt* (34 L. J. Q. B. 37), *Backhouse v. Hall* (34 L. J. Q. B. 141), *Wood and another v. Priestner* (15 L. T. Rep. N. S. 317; 17 L. T. Rep. N. S. 103), *Chalmers v. Victors* (18 L. T. Rep. N. S. 481), *Laurie P.O. of the Union Bank v. Scholefield* (20 L. T. Rep. N. S. 852), and *Burgess v. Eve* (41 L. J. Ch. 515). The death of the surety does not operate as a revocation of a continuing guaranty: (*Bradbury v. Morgan*, 31 L. J. Ex. 462.)

to the house or firm of C.D. and E.F. as "C.D. and Co." of whatsoever it may consist. (a)

DATED the day of 18 .
G.H. [*promisor*].

Indemnities.

Precedent 93.

93. *Indemnity to a Surety of a Composition.*

To A.B., of &c. [*surety*].

Indemnity to
a surety of a
composition.

IN CONSIDERATION of your becoming a party to our deed of composition, and being surety for payment of in the pound composition to the separate creditors of Y.Z., of &c. [*debtor*], named in the schedule to the deed, WE HEREBY AGREE AND UNDERTAKE to provide in due time the whole of the money required to pay the said composition and all expenses, and to save you harmless and to keep you indemnified from all claims and demands of the said creditors, and as a further security to you we hereby assign to you so far as we lawfully or equitably may, and undertake and agree on the bankruptcy against us being annulled (which is already arranged to be done), to ratify and confirm to you the sum of £ , belonging to us and now in the hands of , on account of goods consigned by us to him for sale on our account. AND WE FURTHER UNDERTAKE to direct the remittance to you of the proceeds of the said goods not exceeding £ , and when received you are to hold the same in trust, in the first place to reimburse you all expenses that you may

(a) As to the relative positions, and respective rights of the various parties in the event of the customers' insolvency, see and consider *Ex parte, the Midland Banking Company, Re Sellers*: (38 L. T. Rep. N. S. 395.)

incur on our account or by reason of your suretyship, and in the next place to pay yourself all moneys which you may pay on our account to the separate creditors under the said deed, with interest thereon from the date of payment at the rate of £ per cent. per annum, and to pay the surplus (if any) unto us. AND WE UNDERTAKE after the said bankruptcy is annulled to execute any further instrument or writing you may require for carrying into effect the terms herein stated and incidental to this arrangement.

DATED the day of 18 .

Y.Z., C.D., and E.F. [*indemnifiers*].

94. *Indemnity to a Person permitting the Use of his Name in carrying on a Business.* **Precedent 94.**

To A.B., of &c. [*person indemnified*].

IN CONSIDERATION of your permitting me or other the person or persons for the time being constituting the firm of "C.D. and Co." to have the exclusive right to use your name henceforth in carrying on the business of , in , under the style of "A.B. and Co.," and giving me and my said firm full power and authority to carry on the said business there, under the said style of "A.B. and Co.," and to use your name therein, and in all, or any matters relating thereto, or connected therewith, in such way or ways as may be deemed necessary or advisable for carrying on the said business, I have placed to the credit of your account with my firm of "C.D. and Co.," the sum of £ , as the purchase money of the said business, and the plant, effects, and goodwill thereof. AND I HEREBY UNDERTAKE and agree for myself, as well as for other the person or persons for the time being, composing the said firm of C.D. and Co., from time to time and at all times

Indemnity to a person permitting the use of his name in carrying on a business.

hereafter, well and sufficiently to protect, defend, and save you harmless, and keep you, your heirs, executors, and administrators, and your lands, tenements, goods, and chattels indemnified from and against all debts, claims, and demands, costs, charges, and expenses, to be at any time sustained or incurred by you through or in consequence of the said business in _____, being so carried on by me, under the said style of "A.B. and Co.," or for, or by reason, or in consequence of the exercise of any of the powers given to me by you or in anywise in relation thereto. AND I UNDERTAKE to execute and deliver to you on request any deed or further indemnity you may require for carrying into effect the terms of this agreement or the arrangement contemplated by ourselves.

DATED the _____ day of _____ 18 .
C.D. [*indemnifier*].

Leases.

Precedent 95. *Lease of Building Land* (under a power in that behalf in a Settlement).

Parties. THIS INDENTURE made, &c., BETWEEN A.B., of &c. [*surviving trustee and lessor*], of the first part, C.D., of &c., and D.D., his wife [*life tenants*], of the second part, and

Witnesseth. E.F., of &c. [*lessee*], of the third part. WITNESSETH that, in consideration of the rent and covenants hereinafter reserved and contained, and on the part of the said E.F., his executors, administrators, and assigns, to be observed and performed, he, the said A.B., pursuant to and in execution of a power to him given by a certain indenture of settlement, bearing date, &c., and expressed to be made between the said D.D. (then D.B., spinster),

of the first part, the said C.D. of the second part, and B.B. (since deceased) and the said A.B. of the third part, and of every other power enabling him in this behalf and with the consent of the said C.D. and D.D. his wife (testified by their being parties to and executing these presents), DOth by these presents demise and lease unto the said E.F., his executors, administrators, and assigns ALL THAT plot of land situate and being, &c. [*parcels*], Parcels. and containing in the whole by recent admeasurement (including one-half in width of the said street and passage, so far as the same respectively are co-extensive with the said land, but which said halves of street and passage are not intended to be hereby demised, but to be for ever hereafter left open and unbuilt upon) superficial square yards, or thereabouts, which said plot of land is delineated and more particularly described in the plan drawn in the margin of these presents and therein edged , TOGETHER with the free use and And user of street and passage. enjoyment of the said street and passage in common with the other lessees and occupiers of hereditaments abutting thereupon. AND ALSO all and every the rights, ease- General words. ments, and appurtenances to the said demised premises belonging (except nevertheless and out of these presents Exception of mines. always reserved unto the said A.B., his heirs and assigns, or other the owner or owners thereof, all mines of coal and cannel and other mines and minerals whatsoever lying within and under the said premises, with full and free liberty to dig and search for, get, take, and carry away the same mines and minerals and dispose thereof at pleasure without any liability on the part of the said A.B., his heirs and assigns, to make any compensation to the said E.F., his executors, administrators, or assigns, or his or their tenants, for any damage to the surface of the said land, or to any buildings thereon thereby to be occasioned) TO HOLD the said premises expressed to be Habendum hereby demised unto the said E.F., his executors,

administrators, and assigns from the day of
 18 , for the term of years thence next
 Reddendum. ensuing, YIELDING AND PAYING therefor during the said
 term the clear yearly rent of £ (a) by equal half-
 yearly payments on every the day of ,
 and the day of in each year free from
 all rates, taxes, assessments, and impositions whatsoever
 (property tax only excepted), the first half-yearly pay-
 ment to be made on the day of , 18 .
 Covenant by AND the said E.F. for himself, his heirs, executors,
 lessee to pay administrators, and assigns, doth hereby COVENANT with
 rent. the said A.B., his heirs and assigns that he the said E.F.,
 his executors, administrators, and assigns will pay unto
 the said A.B., his heirs, or assigns the said yearly rent
 And taxes. at the times and in the manner aforesaid, AND will also
 pay or cause to be paid all rates, taxes, charges, assess-
 ments, and impositions whatsoever now or hereafter to
 be imposed upon or in respect of the said hereby demised
 And to build premises. AND ALSO that he the said E.F., his execu-
 houses in con- tors, administrators, or assigns, will at his and their own
 formity with costs in all things, and in conformity with the regu-
 local regula- lations of [*here insert description of the local authority*]
 tions. forthwith, in a good, substantial, and workmanlike
 manner, erect, build, and completely finish fit for occu-
 pation, and at all times hereafter during the said term
 maintain and keep in repair upon the front of the said
 plot of land to Street aforesaid or more
 good and substantial dwelling house or dwelling houses,
 or other erections and buildings of brick or stone, or
 both, to be set with lime, mortar, and covered with
 Welsh slates, which, when finished, shall be of the clear
 yearly value of not less than three times the said yearly
 rent hereby reserved, and; in case of fire, tempest,

(a) This form is a general reservation of the rent, so that there can be no difficulty in the reversioner, whoever he may be, taking advantage of it: (2 Platt on Leases, 88.)

destruction or decay of or to the buildings so to be erected, or any of them, will from time to time rebuild and replace the same with other such like good buildings, so as at all times during the said term such buildings shall remain of such clear yearly value as aforesaid.

AND ALSO that it shall be lawful for the said A.B., his heirs, and assigns twice, or oftener, in each year at seasonable times to enter upon the said hereby demised premises to examine the condition thereof. AND ALSO

And to permit lessor to enter and examine.

that he the said E.F., his executors, administrators, or assigns shall not nor will at any time during the said term erect or build upon the said land, or any part thereof, any court of dwelling houses, nor any back dwelling house, nor permit or suffer any part of any dwelling house or other building erected on the said land to be occupied as a back dwelling house without the previous consent in writing of the said A.B., his heirs, or assigns. AND ALSO that he the said E.F., his

Not to erect a certain class of buildings.

executors, administrators, or assigns, will, during the said term hereby granted, as often as need shall require, pay a reasonable share and proportion towards the costs of and expenses of making, supporting, repairing, and cleansing the pavements, channels, fences, wy-draughts, sewers, and drains which are now or hereafter shall be formed or laid down in Street aforesaid, and the

And to pay share of street expenses.

passage aforesaid by the said A.B., his heirs, or assigns, or by the said [local authority]. AND, FURTHER, that the said E.F., his executors, administrators, or assigns shall not at any time during the said term exercise or carry on, or permit or suffer to be exercised or carried on by any person or persons whomsoever upon the said demised premises, or any part thereof, the trade or business of an ale or beerseller licensed victualler or vendor of wines or spirits, nor any noisome, dangerous, or offensive manufactory, trade, or business, nor do or cause, nor knowingly or willingly permit or

Not to carry on noisome trades, &c.

And to construct a footway.

Proviso for re-entry.

Qualified covenant by lessor and C.D. for quiet enjoyment.

suffer to be done any act, matter, or thing on the said demised premises, or any part thereof which may hereafter be or grow to be an annoyance, damage, or disturbance to the owners or occupiers of the adjoining or adjacent property. AND ALSO that he, the said E.F., his executors, administrators, and assigns will make a footway of flags in front of the said hereby demised premises to

Street aforesaid, and lay a sufficient kerb thereto, the whole to be done to the satisfaction of the said [*local authority*], and as they shall require. PROVIDED ALWAYS that if the said yearly rent hereby reserved or any part thereof shall remain unpaid for the space of days next after any or either of the said days or times hereinbefore appointed for the payment thereof, and whether demanded or not, or if default shall be made in the observance and performance of all or any of the covenants herein contained on the part of the said E.F., his executors, administrators, or assigns, to be performed then and thenceforth, and in any of the said cases it shall be lawful for the said A.B., his heirs or assigns, into and upon the said hereby demised premises, or any part thereof, in the name of the whole to re-enter, and thereupon the said term of years shall absolutely determine. AND the said A.B., so far as relates to his own acts and deeds, and for the purpose of binding the estate so far as he lawfully can or may without rendering himself personally liable for any breach of covenant herein contained otherwise than for his own acts and deeds, doth hereby for himself, his heirs, executors, and administrators, AND the said C.D., so far as relates to his own acts, deeds, and defaults, doth hereby for himself, his heirs, executors, and administrators COVENANT with the said E.F., his executors, administrators, and assigns, that he the said E.F., his executors, administrators, and assigns, paying the said yearly rent on the days and in manner hereinbefore appointed for payment thereof and

observing and performing the several covenants by the lessee herein contained may peaceably and quietly hold and enjoy the said hereby demised premises, and every part thereof, during the said term without any interruption by the said A.B., his heirs or assigns, or any person claiming through, or in trust for him or them. IN WITNESS, &c.

96. *Lease of a Dwelling House.*

Precedent

96.

THIS INDENTURE made, &c., BETWEEN A.B., of &c., [lessor], of the one part, and C.D., of &c. (hereinafter called "the lessee"), of the other part. WITNESSETH that the said A.B. doth hereby demise unto the said lessee, his executors, administrators, and assigns ALL that dwelling house Numbered in Road, , aforesaid with the garden, yards, out-buildings, and ground held therewith. TOGETHER with all ways, lights, sewers, watercourses, rights, privileges, easements, advantages, and appurtenances thereto belonging. To HOLD the said premises unto the said lessee, his executors, administrators and assigns for the term of years, from the day of 18 . YIELDING AND PAYING therefor during the said term, the yearly rent of £ , clear of all deductions (except property tax, and the landlord's proportion of sewerage and water rates, if any), by equal payments in advance on the day of the day of , the day of , and the day of , in every year, the first of such payments to be made on the day of 18 . AND the said lessee doth hereby for himself, his heirs, executors, and administrators, COVENANT with the said A.B., his executors, administrators, and assigns, that he the said lessee, his executors, administrators, or assigns, shall and will during the said term

Parties.

Witnesseth.

Parcels.

General words.

Habendum.

Reddendum.

Covenant by lessee to pay rent.

pay the yearly rent hereinbefore reserved, on the days
 And taxes. and in manner aforesaid. AND will pay during the said
 term, all taxes, charges, rates, assessments, and im-
 positions, whatsoever (except as aforesaid), and will
 during the said term keep and preserve the whole of
 the inside (except the roof, main walls, and main
 timbers) of the said premises in good order and
 And to repair. tenantable repair (reasonable wear and tear, and damage
 by fire, storm, tempest, or inevitable accident excepted).
 And yield up And will, at the expiration or other sooner determination
 at end of the of the said term, deliver up the peaceable and quiet
 term. possession of the said demised premises, with all improve-
 ments or alterations which may have been made thereon,
 unto the said A.B., his executors, administrators, or
 assigns, in good order and condition (reasonable wear
 and tear, and damage by fire, storm, tempest, or in-
 And to permit evitable accident excepted). AND THAT the said A.B.,
 lessor to enter his executors, administrators, and assigns, and his
 and examine. and their agents, and workmen, may at all seasonable
 times during the said term enter upon the said demised
 premises, to inspect and examine the condition of the
 same. AND THAT the said lessee, his executors, adminis-
 trators, or assigns, shall not nor will assign or sublet, or
 Not to assign make any alterations upon, in, or about the said demised
 or sub-let. premises, without the consent in writing of the said
 A.B., his executors, administrators, or assigns, first
 obtained for such purpose, (a) but such consent shall not
 be unreasonably withheld if the proposed lessee or
 assignee is a respectable and responsible person, or the
 proposed alterations beneficial to the property. (b) AND

(a) It should be noted that an assignment without licence is under such a covenant a forfeiture against which equity will not relieve: (*Hill v. Barclay*, 17 Ves. 63).

(b) See *Lehmann v. McArthur* (37 L. J. Ch. 625), *West v. Dobb* (39 L. J. Q. B. 190), *Treloar v. Bigge* (43 L. J. Ex. 95), and *Sear v. The House Property and Investment Company* (50 L. J.

the said A.B. doth hereby for himself, his heirs, executors, and administrators, COVENANT with the said lessee, his executors, administrators, and assigns, that upon payment of the rent and performance of the covenants, conditions, and agreements hereinbefore reserved and contained, the said lessee, his executors, administrators, and assigns, shall and may peaceably hold and enjoy the said demised premises, with the appurtenances, during the said term, without any let, suit, trouble, molestation, eviction, or disturbance whatsoever, of, or from the said A.B., his executors, administrators, or assigns, or any person or persons claiming under him or them in any-wise. AND ALSO that the said A.B., his executors, administrators, or assigns, shall and will during the continuance of this demise keep the roof, main timbers and outside parts of the said premises, in good and tenantable repair and condition, and paint(a) the outside wood and ironwork once every years.(b) PROVIDED ALWAYS that if the said premises, or any part thereof, shall at any time during the said term be destroyed by fire, storm, or tempest, so as to render the same unfit for use or occupation, then and in every such case the rent hereby reserved, or a fair proportion thereof, shall cease to be payable until the said premises shall be rebuilt, and rendered fit for occupation. PROVIDED ALSO that if the said yearly rent, or any part thereof, shall be in arrear, or unpaid for days after any of the days whereon the same ought to be paid as aforesaid, whether legally demanded or not, and no

Covenant by lessor for quiet enjoyment.

And to repair outside.

Proviso for abatement of rent in the event of fire, &c.

And for re-entry.

Ch. 77): wherein Hall, V.C. states "that the non-performance of the stipulation leaves the lessee at liberty if the licence is unreasonably withheld, to deal with his property as he would if no licence were required."

(a) A covenant to repair and amend does not include a covenant to paint: (*Darlington v. Hamilton*, 24 L. J. Ch. 33.)

(b) A landlord is under no obligation to repair unless he contracts to do so: (*Gott v. Gandy*, 2 E. & B. 845.)

sufficient distress can be found upon the said demised premises to satisfy the same, or if the said lessee, his executors, administrators, or assigns shall commit, or suffer any wilful or voluntary waste, spoil, or destruction, on the said demised premises or shall assign, or sublet, or alter the same or any part thereof, without such written consent as aforesaid, (a) or if the said lessee shall become bankrupt file any petition for the liquidation of his affairs by arrangement, or make any assignment, or enter into any composition with, or for the benefit of creditors, or shall neglect or fail in the due performance of all or any of the covenants or agreements herein contained, and which on the part of the said lessee, his executors, administrators, or assigns, are, or ought to be, done or performed, then, and in any of the said cases, it shall be lawful for the said A.B., his executors, administrators, or assigns, into and upon the said demised premises, or any part thereof in the name of the whole, to re-enter, and the same, and every part thereof, to have again, repossess and enjoy as in his and their former estate, anything hereinbefore contained to the contrary thereof notwithstanding. IN WITNESS, &c.(b)

(a) In *West v. Dobb (ante)* where the proviso was worded that "in case the lessee should fail in the observance, or performance of any or either of the covenants and agreements on his or their part contained," &c., it should be lawful for the lessor to re-enter, and one of such covenants was a covenant not to assign, *semble*, per Kelly, C. B., and Channell, B., that the alleged breach of covenant was no forfeiture as the proviso applied only to a default in the performance of an affirmative and not of a negative covenant; and see judgment of Brett, L.J. in *Hyde v. Warden* (47 L. J. (app.) Ex. 127), wherein he stated that the court would be prepared to hold that the power of re-entry did not apply to a breach of a negative covenant.

(b) On the execution of a lease and counterpart, the lease, executed by the lessor only, is delivered to the lessee, and the counterpart, executed by the latter only, to the lessor. The advantage of having the

97. Lease of a Dwelling House and Fixtures **Precedent**
(concise form). **97.**

THIS LEASE made, &c., BETWEEN A.B., of &c. [*lessor*], of Parties.
the one part, and C.D., of &c. [*lessee*], of the other part.
WITNESSETH that the said A.B. hereby demises unto the Witnesseth.
said C.D. ALL that, &c. [*parcels*]. TOGETHER with the Parcels.
several fixtures, and things specified in the schedule
hereunder written. To HOLD the said premises unto the Habendum.
said C.D., his executors, administrators, and assigns,
from the day of , 18 , as tenant from
year to year. RENDERING therefor the clear yearly rent Reddendum.
of £ , to be payable by equal half-yearly pay-
ments in advance on every the day of ,
and the day of , in each year of the
tenancy; the first of such payments to be made on the
said day of , 18 , being the day of the
commencement of the tenancy, and every subsequent
half-year's rent to be due, payable, and recoverable in
advance, on the first day of each half-year in like manner.
AND the said C.D., for himself, his heirs, executors, and
administrators, hereby COVENANTS, with the said A.B., his
heirs, and assigns, that he, the said C.D., his executors,
administrators, or assigns, will pay the said rent upon
the days and in the manner before mentioned. AND
THAT it shall be lawful for the said A.B., his heirs, and
assigns, to distrain for rent due and payable in advance,
in like manner as for rent in arrear and with all usual
powers of distress and sale. IN WITNESS, &c.

Covenant by
lessee to pay
rent.

And that
lessor may
distrain for
rent in ad-
vance.

THE SCHEDULE referred to.

counterpart executed by the lessee only, is, first, that it can be used in evidence without giving proof of the execution of the lease (*Doe dem. Earl of Egremont v. Pulman*, 3 Q. B. 622); and secondly, that it avoids the necessity of having a denoting stamp affixed: (see 33 & 34 Vict. c. 97, sect. 93). A lease and counterpart must be taken as one document, and can only be construed together: (*Burchell v. Clark*, 46 L. J. (App.) C. P. 115; 35 L. T. Rep. N. S. 690.)

**Precedent
98.****98. Lease of a Public House by a Freeholder.**

Parties. THIS INDENTURE made, &c., BETWEEN A.B., of &c. [*lessor*], of the one part, and C.D., of &c. [*lessee*], of the other part. WITNESSETH that in consideration of the yearly rent hereinafter reserved, and of the covenants, provisoes, and agreements hereinafter contained, and on the part of the said C.D., his executors, administrators, and assigns, to be paid and performed, the said A.B. doth hereby demise and lease unto the said C.D., his executors, administrators, and assigns, ALL that, &c. [*parcels*], with the outbuildings and appurtenances thereto belonging, situate and being Number , in Street,

Parcels.

Habendum. , aforesaid, now in the occupation of E.F., To HOLD the said premises with their appurtenances unto the said C.D., his executors, administrators, and assigns, from the day of , 18 , for and during

Reddendum. the term of years then next ensuing. YIELDING AND PAYING therefor yearly and every year unto the said A.B., his heirs and assigns, (a) the clear yearly rent or sum of £ , payable quarterly on the day of , the day of , the day of , and the day of , in every year, by equal portions free and clear of and from all taxes, rates, and assessments, parliamentary, parochial, or otherwise (except property tax and the landlord's proportion of the sewerage and water rates), the first payment to be made on the day of next.

Covenant by lessee to pay rent. AND the said C.D., for himself, his heirs, executors, and administrators, hereby COVENANTS with the said A.B., his heirs and assigns, that he the said C.D., his heirs, executors, administrators, or assigns, shall and will yearly and every year during the said term pay unto the said A.B., his heirs and assigns, the said yearly rent or sum herein-

(a) See as to the better form of *reddendum*, note (a), to Precedent 95, *ante*, p. 144.

before reserved, on or at the several days or times and in manner hereinbefore appointed for payment thereof; AND ALSO shall and will pay and discharge all taxes, And taxes. rates, charges, and other impositions, parliamentary, parochial, or otherwise, which now are or hereafter during the said term shall be assessed, rated, charged or imposed upon, or in respect of the said premises, or upon the said yearly rent hereinbefore reserved, or any part thereof, or upon the landlord or tenant in respect thereof (except property tax and the landlord's proportion of the sewerage and water rates). AND ALSO that the said C.D., And to repair and yield up at end of the term. his executors, administrators, or assigns, shall and will at all times during the said term, when, where, and as often as occasion shall require, well and sufficiently repair and keep repaired in a workmanlike manner and with good materials, all the glass in the windows and the shutters, doors, locks, fastenings, partitions, ceilings, floors, privies, shelves, counters, drawers, cupboards, forms, fixtures, fittings, water-closets, sinks, drains, cisterns, pipes, watercourses, and all other the inside of the said premises, reasonable wear and tear and damage by fire or other inevitable accident only excepted, and in such good and sufficient repair shall and will, at the end or other sooner determination of the said term, peaceably and quietly yield, surrender, and deliver up the said demised premises unto the said A.B., his heirs or assigns, as also all additions and improvements whatsoever which shall at any time during the said term be made by him or them in or upon the said demised premises or any part thereof. AND THAT it And to permit lessor to enter and examine. shall be lawful for the said A.B., his heirs and assigns, with or without surveyors and workmen in his or their company, at his or their discretion from time to time in the daytime during the said term to enter upon the said premises hereby demised to view, search, and see the state and condition thereof, and of all decays, defects,

Not to assign
or sub-let.

To use the
premises as a
public-house
only.

and wants of reparation and amendment of the inside of the said demised premises which on every such view shall be found to give or to leave notice in writing, at or upon the said demised premises, to or for the said C.D., his executors, administrators, or assigns to repair and amend the same within days then next following, within which said time or space of days next after every such notice shall be so given or left as aforesaid the said C.D., his executors, administrators, or assigns shall and will repair and amend all such decays, defects, and wants of reparation and amendment of the inside of the said demised premises. AND THAT the said C.D., his executors or administrators, shall not nor will, at any time during the said term hereby granted, assign over the present lease nor grant, assign, demise, underlet, or part with the possession of the said demised premises, or any part thereof, to any person or persons whomsoever, without the special licence or consent in writing of the said A.B., his heirs or assigns, first obtained for that purpose. AND THAT the said C.D., his executors, administrators, or assigns shall not, nor will, at any time during the continuance of this demise, convert the hereby demised premises into a private house, nor use, permit, or suffer the same to be used for any other purpose than as a licensed public-house for the sale of ale, wine, and spirituous liquors, and shall and will keep the same open every lawful day, and conduct the business thereof in a proper and orderly manner so as to afford no ground or pretence for discontinuing the licences thereof, and will not do, permit, or suffer any act, matter, or thing, which may be a breach of the rules and regulations established by law for the conducting of licensed public-houses or be a reasonable ground for the withdrawing or withholding of all or any of the licences for sale of beer and ale, wine and spirituous liquor therein. AND shall and will from time to time during the con-

tinuance of the said term apply for and do, or cause to be done, all and whatsoever shall be requisite for obtaining the renewal of such licences, and will at the end or other sooner determination of the said term deliver up the same licences in full force to and for the benefit thenceforth of the said A.B., his heirs or assigns, or the incoming tenant of the said premises, or as he or they may direct, and for that purpose if required shall appear personally before the justices, and sign, deliver, give and do all such consents, transfers, acts, and things, as may be requisite for procuring a transfer of the same to the said A.B., his heirs or assigns, or to whom he or they may direct. (a) PROVIDED ALWAYS and these presents are upon this express condition, that if the said yearly rent hereinbefore reserved, or any part thereof, shall be in arrear for the space of days next after any of the said days whereon the same ought to be paid as aforesaid (being demanded and not paid on demand) (b), or if the said C.D., his executors, administrators, or assigns, shall make default in the performance of any of the covenants, clauses, conditions, or agreements herein contained on his or their part to be done, performed, and observed, or in case the said C.D., his executors, administrators, or assigns, or any of them, shall become bankrupt, or shall permit the said lease or the said demised premises, or the tenant's interest therein to be taken in execution, or in case the said C.D., his executors, administrators, or assigns, or his or their under-tenants shall so misconduct the said business of the said spirit vault as to have any fine by the justices recorded against the same, or otherwise jeopardise the

To renew
licences and
yield them up
at end of the
term.

Proviso for
re-entry.

(a) As to the validity of this covenant see *Ex parte Royle, re Britnor* (46 L. J. Bk. 85).

(b) The demand of the rent in respect of which ejectment is brought, must be made after, not during, the days limited in the proviso have elapsed: (*Phillips v. Bridge*, 43 L. J. C. P. 13.)

Covenant by
lessor for
quiet enjoy-
ment.

renewal of any of the said licences, then, and in any of such cases thenceforth and at all times thereafter it shall be lawful for the said A.B., his heirs or assigns into and upon the said premises hereby demised, or any part thereof, in the name of the whole, to re-enter, and the same to have again, repossess, and enjoy as if these presents had not been made, and the said C.D., his executors, administrators, and assigns, and all other occupiers of the said premises thereout and thence utterly to eject, put out, and remove, this indenture or anything herein contained to the contrary thereof in anywise notwithstanding. AND the said A.B., for himself, his heirs, executors, and administrators, hereby COVENANTS with the said C.D., his executors, administrators, and assigns, that he the said C.D., his executors, administrators, or assigns, paying the said rent hereinbefore reserved in manner at the times and according to the reservation thereof as aforesaid, and performing, fulfilling, and observing all and singular the covenants, provisoes, and agreements herein contained on his and their part to be performed, fulfilled, and observed, shall, and lawfully may, peaceably hold, occupy, and enjoy the said premises with the appurtenances during the said term hereby] granted without any lawful let, suit, trouble, molestation, or disturbance whatsoever of, from, or by the said A.B., his heirs or assigns, or any other person or persons lawfully or equitably claiming under or in trust for him or them.

And to repair
outside.

AND THAT the said A.B., his heirs or assigns, shall and will at his or their own expense at all times during the said term when and as often as occasion shall require, well and substantially repair, uphold, and keep in good and tenantable order and repair the roof, main timbers, main walls, and outside parts of the said hereby demised premises. PROVIDED ALWAYS, and it is hereby agreed, that in case the said hereby demised premises shall at any time or times during the said term be destroyed or

Proviso for
abatement of
rent in the
event of fire,
&c.

damaged by fire or other inevitable accident, then the rent payable in respect of the said premises, or a proportionate part thereof, shall cease and be suspended so long as the said premises shall be wholly or partially unfit for occupation by reason thereof, (a) and in case any dispute shall arise between the said parties in regard to the amount of the abatement to be so made from the said rent, or the period for which the said rent or any part thereof shall be suspended, the same shall be referred to arbitration. IN WITNESS, &c.

99. *Lease of a Public House, Fixtures, and Music Hall by a Leaseholder (the Rent increasing and being Payable in Advance, and the Tenancy Determinable at the End of any Year).* **Precedent
99.**

THIS LEASE made, &c., between A.B., of &c. [*lessor*], of Parties. the one part, and C.D., of &c. [*lessee*], of the other part.

WITNESSETH that in consideration of the rent and cove- Witnesseth.
nants hereinafter reserved and contained, the said A.B. doth hereby demise unto the said C.D., his executors, administrators, and assigns, ALL that messuage or Parcels. dwelling house and premises used as a licensed public

(a) *In cases where applicable, this proviso may be used in lieu of the preceding:* Provided always, and it is hereby agreed that in case the said hereby demised premises shall at any time or times during the said term be so destroyed or damaged by fire or other inevitable accident as to be unfit for habitation, the said C.D., his executors, administrators, and assigns, shall not be liable to pay any further rent except a fair proportion of the current year's rent, it being the intention of the parties to these presents that henceforth both rent and term shall cease. But if the said premises shall not be so far injured as to be rendered unfit for habitation, then the said A.B., his heirs or assigns, shall and will immediately thereafter rebuild or repair the same, and the said rent or a proportionate part thereof shall be suspended in the meantime, and in case, &c. [*Conclude as before.*]

house, situate and being, &c. [*parcels*], which premises were lately in the occupation of E. F. TOGETHER with the use of the licences now attached, or which may hereafter be attached, to the premises for keeping open the same as a licensed victualling house or tavern. AND the fixtures, furniture, and effects in and about the premises specified in the schedule hereto. AND all rights and appurtenances thereto belonging. To HOLD the said premises unto the said C.D., his executors, administrators, and assigns, from the day of 18 ,

Habendum. as tenant from year to year. RENDERING therefor during the tenancy the clear rent following, that is to say, for the first quarter of a year £ payable in advance on the execution hereof and for the second and each succeeding quarter the clear rent of £ payable in advance on the first day of the second and every succeeding quarter during the tenancy, the said rents to be clear of all taxes whatsoever (the property-tax only excepted). AND the said C.D., for himself, his heirs, executors, and administrators, hereby COVENANTS with the said A.B., his executors, administrators, and assigns in manner following, that is to say, that he the said C.D., his executors, administrators, or assigns, will pay the said rents respectively upon the days and in manner before mentioned, AND WILL defray all outgoings chargeable by law upon the premises (except the property-tax), AND WILL at his and their own cost maintain and keep the glass in the windows, the window frames and window shutters, the boards of the floors, the inside doors, and all the inside of the said premises, and the fixtures, drains, spouts, and watercourses belonging thereto, and the furniture and effects specified in the schedule hereto, in good order and repair; and the same in such good order and repair, with all licences now attached, or which may be hereafter attached thereto, will, at the determination of the tenancy, peaceably and

Reddendum.

Covenant by lessor to pay rent.

And taxes.

And to repair and yield up at end of the term.

quietly yield and deliver up to the said A.B. his executors, administrators, and assigns (reasonable wear and tear and damage by fire excepted), and will sign all requisite documents for transferring such licences to the said A.B. or such person as he shall appoint, and will at his own expense personally attend before the justices and consent to such transfer when required. AND will during the tenancy occupy the demised premises as an inn, or public-house and music-hall, and for no other purpose; and will keep open the same every lawful day, and conduct the same in a proper and orderly manner, and afford no ground whatever for being fined, or for the withdrawal of any licence attached or to be attached thereto; AND WILL, whenever occasion shall require, at the expense of the said A.B., adopt such proceedings as shall be requisite for renewing such licences. AND will not make any alterations whatever in the demised premises without the previous consent in writing of the said A.B. AND will not, without such consent, let, underlease, exchange, assign,^(a) or otherwise part with the possession of the demised premises or any part thereof to any person whomsoever, nor shall the same be assignable by act or operation of law without such consent. AND will not commit or suffer any wilful or voluntary destruction or damage in or to the demised premises. AND will, during the tenancy purchase of the said A.B., or of him and his partner or partners, or successors in trade, all the sixpenny and lower priced beer and ale sold and disposed of on the demised premises. And will not, at any time, directly or indirectly, sell or dispose of on the hereby demised premises any sixpenny or lower priced beer or ale other than such as shall be *bonâ fide* purchased from the said A.B., or of him and his partner or partners, or successors

To use the premises as an inn and music-hall only.

To renew the licences.

Not to alter the premises.

Nor assign or sub-let.

Nor commit waste.

To purchase beer from lessor.

And not to dispose of beer purchased elsewhere.

(a) See *Holland v. Cole* (31 L. J. Ex. 481), as to execution of an assignment for benefit of creditors being a breach of this covenant.

And to permit lessor to enter and to examine. in trade.(a) AND THAT it shall be lawful for the said A.B., his executors, administrators or assigns, or his or their appointees, at all reasonable times to enter upon and go through the demised premises, and to examine the condition thereof, without any obstruction or denial whatsoever. PROVIDED ALWAYS, and these presents are upon this condition, that, in case the said rents respectively or any part thereof respectively, shall be unpaid for the space of days next after any of the days hereinbefore appointed for payment thereof respectively, whether demanded or not, or if the said C.D., his executors, administrators, or assigns, shall be adjudged bankrupt, file any petition for the liquidation of his affairs by arrangement, or assign his or their estate for the benefit of, or in trust for, creditors, or make any general composition with creditors, or, if any execution shall be levied upon the demised premises, or if this lease, or the tenancy hereby created, shall be taken in execution, or if the said C.D., his executors, administrators, or assigns, shall not perform and keep all the covenants and agreements herein contained, and on his and their part to be performed, or, if any fine affecting the licences shall be recorded against the demised premises or the occupiers thereof, or if at any time the premises shall be left unoccupied or be not kept open for business every lawful day, then and in any of such cases (notwithstanding the waiver of any previous right of entry) the covenant for quiet enjoyment hereinafter contained shall cease and be void; and it shall be lawful for the said A.B., his executors, administrators, and assigns, or the person or persons in whom shall be vested for the

Proviso for re-entry.

(a) See *Holcombe v. Hewson* (2 Camp. 391), *Cooper v. Twibill* (3 *Ibid.* 286), and *Catt v. Tourle* (20 L. T. Rep. N. S. 551; and on appeal, 21 *Ibid.* 188), where the questions of uncertainty, mutuality, and public policy, with reference to such a covenant, are fully considered. See also note (a), *post*, p. 161.

time being the reversion in the said premises, immediately expectant on the determination of the said tenancy into and upon the demised premises or any part thereof, in the name of the whole, to enter and to use and pursue all such ways and means, and adopt all such measures as may be necessary or deemed expedient for effecting such entry, by force or otherwise, as occasion may require, without the necessity of commencing any action of ejectment or any other action whatsoever, and to expel, remove, and put out the said C.D., his executors, administrators, and assigns, and all other occupiers of the same premises, and their goods, chattels, furniture, and effects, without being liable for any loss, costs, damages, expenses, or action for so doing, and the same premises to have again, repossess, and enjoy, as if these presents had not been made, and thereupon this demise shall become void and be at an end; but such entry shall not defeat or prejudice any right of action or other remedy for arrears of rent or breach of covenant which the said A.B., his executors, administrators, or assigns, might have had if no such entry had been made, anything herein contained or any rule of law or equity to the contrary thereof in anywise notwithstanding. AND the said A.B., for himself, his heirs, executors, administrators, and assigns, hereby COVENANTS with the said C.D. that he the said A.B., or his firm of , or their successors in trade for the time being, will supply the said C.D., his executors, administrators, and assigns, with sixpenny and lower priced beer and ale of the like good quality and at the same market price as to their other customers. And in case of any supply being bad in quality, on notice thereof will take and replace the same with a similar article of good quality.(a) AND

Covenant by
lessor to
supply beer.

(a) See hereon *Luker v. Dennis* (47 L. J. Ch. 174; 38 L. T. Rep. N. S. 827), wherein it was held that a covenant to take all beer is conditional on a proper supply of a marketable article, and that

And for quiet enjoyment.

Power of attorney as regards licences.

THAT the said C.D., his executors, administrators, and assigns, duly paying the said rents respectively, and performing all the lessee's covenants and agreements herein contained, may peaceably and quietly use, occupy, and enjoy the demised premises during the said tenancy without any interruption whatsoever by the said A.B., his executors, administrators, or assigns, or any person claiming under him or them. AND for securing to the said A.B. the delivery and transfer of all the said licences at the expiration or determination of the said tenancy the said C.D. doth hereby constitute and appoint the said A.B., his executors, administrators, and assigns, the true and lawful attorney and attorneys irrevocable of the said C.D., in the name of the said C.D., his executors or administrators, or otherwise, as occasion shall require, to demand, take possession of, recover, and receive the said licences, in whose possession soever the same shall be found, and for and in the name of the transferrer of the said licences, or otherwise, as occasion shall require, to sign all requisite notices, transfers, and other documents for vesting such licences in the said A.B., his executors, administrators, or assigns, or his or their appointees, and to appear before all justices and officers appointed for the granting and transferring of licences, and to do all acts, and sign all such documents as shall be required for obtaining a new grant or licence, or a transfer of the licences which are now attached, or which may hereafter be attached, to the demised premises in such manner as shall be requisite for enabling the said A.B., his executors, administrators, or assigns efficiently to continue to keep open and conduct the demised premises as a licensed victualling house or tavern or music-hall after the expiration or determination of the tenancy hereby

such a covenant as that in the text imports a condition precedent that it will be performed in lieu of the condition otherwise implied.

created. AND LASTLY, it is hereby agreed and declared between and by the parties hereto that the tenancy hereby created shall be determinable at the end of the first or any subsequent year of the tenancy by either of the said parties, his executors, administrators, or assigns, giving to the other of them, his executors, administrators, or assigns, or leaving for him or them at his or their last known place of abode or business calendar months' previous notice in writing determining the tenancy, provided that such notice shall expire at the end of the last quarter of any year of the tenancy, and not otherwise. IN WITNESS, &c.

THE SCHEDULE referred to.

Letters of Licence.

100. *Letter of Licence to a Debtor from his Creditors.*

**Precedent
100.**

To ALL TO WHOM THESE PRESENTS shall come the several persons whose names and seals are hereunto subscribed and affixed by themselves, or their respective partners, agents, or attorneys, being respectively creditors of A.B., of &c. (and hereinafter called "the creditors") severally send greeting. WHEREAS the said A.B. is indebted to the creditors in several sums of money, which he is not at present able to pay, but which he expects to be able to pay by the instalments following, that is to say

shillings in the pound on the	day of
next,	shillings in the pound on the
day of	18 [and so on, specifying times

and amounts]. Now THESE PRESENTS WITNESS, that in Witnesseth.

Recital of indebtedness.

Licence.

Covenant by
creditors not
to sue.

And that
licence may
be pleaded
in bar.

consideration of the premises, they, the creditors, do and each of them doth hereby grant unto the said A.B. licence to come, go, pass, or repass from place to place within the United Kingdom of Great Britain and Ireland, where and as his vocations, or occasions, shall require from the date of these presents, up to the said day of 18, the said A.B. in the meantime duly paying the several instalments hereinbefore mentioned to the creditors, without being sued, arrested, or molested in his person, or otherwise, for or on account of any debt, sum of money, or other thing whereby, or whereof he is, or may be in anywise charged, or chargeable, or indebted to the creditors, or any of them, or their or any of their respective partners. AND each of them the creditors, so far as relates to the acts and deeds of himself and his partners, and his and their heirs, executors, and administrators, doth hereby for himself, his heirs, executors, and administrators, COVENANT with the said A.B., his executors and administrators, that they the said covenanting parties respectively, or their respective executors, or administrators, partner, or partners, or any other person or persons, by, with, or through their or any of their order, privity, or procurement, will not at any time between the date of these presents, and the said day of 18, (provided the said instalments are duly paid from time to time as they respectively fall due), sue, arrest, attack, or molest the said A.B., his heirs, executors, or administrators, or his or their bodies, goods, or estates, for or on account of any debt or sum of money which he now owes to the creditors respectively, either solely by himself, or jointly with or for any person, or persons, or for or on account of any other thing, wherewith he or they now is, or are, or shall, or may be charged, or chargeable. AND THAT these presents may be pleaded in any court of law or equity, as a bar, and in discharge of all and every

action, or other proceeding, judgment, and execution, which shall or may be brought, commenced, sued, or prosecuted, or taken against the said A.B., his heirs, executors, or administrators, or his or their goods, or estates, by the said covenantee parties respectively, or any of their heirs, executors, or administrators, partner or partners, or any other person, or persons, by, through, or with their or any of their acts, privity, order, or procurement. (a) IN WITNESS, &c.

101. *Letter of Licence to two Debtors from their Joint Creditors.* **Precedent 101.**

TO ALL TO WHOM THESE PRESENTS shall come, the several persons, companies, and co-partnership firms, whose names and seals are hereunto subscribed and affixed by themselves, or their respective agents, or attorneys, being respectively creditors of A.B. and C.D., both of &c., trading there in co-partnership under the style of "A.B. and Co." (and hereinafter designated "the said creditors") send greeting. WHEREAS the said A.B. and C.D. (hereinafter called "the said debtors") have for some time past carried on business in co-partnership as aforesaid, and in the course thereof have become indebted to the said creditors in various sums of money, which they are unable immediately to pay, but which they expect to be able to pay in full within calendar months from the day of , 18 . AND WHEREAS at a meeting of the said creditors, held on the day of instant, it was agreed that the said creditors should give time to the said debtors for payment, and execute these presents. Now THESE PRESENTS WITNESS that in pursuance of the said agree-

Recital of indebtedness.

And meeting of creditors.

Witnesseth.

(a) Letters of licence from creditors are subject to an ordinary deed stamp of 10s.

Licence.

Covenant by
creditors not
to sue.

ment, and in consideration of the premises, they, the said creditors, do and each of them doth hereby grant unto the said debtors, and unto each of them, licence to come and go, and to pass and repass, from place to place within the United Kingdom of Great Britain and Ireland, when and as their respective vocations, business, or occasions shall require, for the term of calendar months from the day of , 18 , without being sued, arrested, or molested, in their, or his person, or persons, for or on account of any debt, sum of money, or other thing whereby or whereof they are, or may be, in anywise charged, or chargeable, or indebted to the said creditors, or any of them, or their or any of their respective partners. AND each of them, the said creditors, so far as relates to the acts and deeds of himself, and his partner, or partners, and his or their heirs, executors, and administrators, doth hereby for himself, his heirs, executors, and administrators, COVENANT with the said debtors, and also as a distinct and separate covenant with each of them his respective executors and administrators, that they the said covenanting parties respectively, or their respective partners, or partner, or any other person, or persons, by, with, or through their or any of their order, privity, or procurement will not (provided the said debtors or either of them do not give any preference or priority, to any one or more of the said creditors, over the other or others of them, at any time hereafter during the said term of calendar months), during such term sue, arrest, impede, or molest, the said debtors or either of them, their or either of their heirs, executors, or administrators, or their or either of their bodies, goods, or estates, for or on account of any debts or sums of money which they now owe, either solely by themselves, or jointly with or as sureties for any other person or persons, or for or on account of anything wherewith they or he may be

charged or chargeable. AND THAT these presents may be pleaded in any court of law or equity as a bar and in discharge of all and every action, or other proceeding, judgment, or execution, which shall or may be brought, commenced, sued, prosecuted or taken against them, the said debtors, or either of them, by the said several covenanting parties, or any of them, or their or any of their heirs, executors, administrators, partners, or partner, or any other persons or person, by, through, or with their or any of their acts, privity, order, or procurement. PROVIDED ALWAYS that in case the said debtors, or either of them, shall at any time hereafter during the said term of calendar months give any preference or priority to any one or more of the said creditors over the others or other of them, the licence hereby given shall be at an end, and no longer be available to the said debtors, or either of them, anything hereinbefore contained notwithstanding. IN WITNESS, &c.

And that
licence may
be pleaded
in bar.

Proviso deter-
mining licence
in certain
events.

"THE SAID CREDITORS."

Signatures.	Seals.	Signed, sealed, and delivered in the presence of

Licences.(a)

Precedent 102. *Licence from a Lessor to assign absolutely.*

To A.B., of &c. [*lessee*].

Licence from
a lessor to
assign abso-
lutely.

IN PURSUANCE OF THE LEASE granted by me to you of a dwelling house and premises, No. , in Street, , and the dwelling-house No. , adjoining, now used as a licensed public-house, I HEREBY CONSENT to your assigning the same premises and all your interest therein under the said lease and the licences attached to the premises, to Mr. Y.Z., of &c., for all the residue now unexpired of the term of years created by the said lease; but this consent shall be available for this turn only, and shall not extend or be construed to extend to authorise an assignment or underlease by the said Y.Z. to any other person without my consent in writing first obtained.

DATED the day of 18 .
C.D. [*lessor*].

Precedent 103. *Licence from a Lessor to assign by Way of Mortgage.*

To A.B., of &c. [*lessee*].

Licence from
a lessor to
assign by
way of mort-
gage.

AT YOUR REQUEST, and in pursuance of the lease granted by me to you, bearing date on or about, &c., of a piece

(a) See 22 & 23 Vict. c. 35, s. 1, *et seq.*; 23 & 24 Vict. c. 38, s. 6; and *Dumpor's case* (1 Sm. L. C. 7th ed. 41). A verbal licence will not suffice where a written one is required (*Richardson v. Evans*, 3 Madd. 218), and a written licence after breach is not good unless by deed. See a form in Davidson's Concise Prec. 10th ed., 303.

of ground with the messuage thereon, situate at _____, in the county of _____, I HEREBY CONSENT to your assigning or underleasing the same by way of mortgage or security to Mr. Y.Z., of &c., either for the residue or any less period of the term of _____ years created by the said lease; but this consent shall only extend to the assignment or underlease, hereby specifically authorised, and shall not prevent, or be deemed to prevent, any proceeding for any subsequent assignment or underlease by you to any other person without my consent in writing first had and obtained.

DATED the _____ day of _____ 18 ____ .
C.D. [*lessor*].

104. *Licence by Mortgagees to grant a Lease*
(endorsed). (a)

Precedent
104.

WE, the undersigned, being mortgagees of the property within demised, do HEREBY CONSENT to A.B. [*mortgagor*] granting the within-written lease to Y.Z. [*lessee*].
C.D. and E.F. [*mortgagees*].

Licence by mortgagees to grant a lease.

(a) Strictly, a lease of property in mortgage should be granted by both mortgagor and mortgagee, the lessee covenanting with the latter as having the legal estate (*Webb v. Russell*, 3 T. R. 393); but as frequently a lease is drawn and oftentimes engrossed in the belief that the property comprised therein is unencumbered, a licence in some such form as the preceding is generally taken, at the last moment, by the lessee's solicitor for the security of his client. As to the effect of leases granted of mortgaged property by mortgagor or mortgagee alone, see *Keech v. Hall* (1 Sm. L.C. 7th ed., 579 and notes.

Memorials.

- Precedent 105.** *Memorial to the Commissioners of Inland Revenue to stamp a Deed without or with a mitigated Penalty. (a)*

Memorial to stamp a deed without a penalty.

To the Honourable the Commissioners of Her Majesty's Inland Revenue [or (*see foot-note*) To the Right Honourable the Lords Commissioners of Her Majesty's Treasury].

The Memorial of A.B., of &c., Gentleman,
Solicitor for G.H., of &c.

Sheweth,

THAT YOUR MEMORIALIST was present, and did see C.D. and E.F. on the day of , 18 , duly execute the instrument hereunto annexed, bearing date the day of , 18 , being an indenture of , and made between the said C.D. of the first part, the said E.F., of the second part, and the said G.H. of the third part.

(a) The Commissioners allow an executed instrument to be stamped, as a general rule on payment of the duty only at any time within two calendar months after its first execution, and they may, if they thing fit, at any time within twelve months after the first execution of any instrument, remit the penalty or penalties, or any part thereof (33 & 34 Vict. c. 97, s. 15). If, however, the twelve months have elapsed since the first execution of the instrument the deed cannot be stamped without payment of the duty to which it is liable and a penalty of £10; but by addressing the memorial, as above, to the Treasury instead of to the Commissioners the Board will, if such duty and penalty have been prepaid, and sufficient cause shown to account for the omission or mistake in stamping in the first instance, issue an order for a return of the penalty or some part thereof.

THAT since the execution of the said indenture on the said day of , 18 , it was temporarily lost or mislaid, and though diligent search was made from time to time by your memorialist and others in his employ, the said deed was not found until the day of instant, when it was immediately presented for the purpose of being duly stamped.

THAT such omission to stamp the said deed was purely accidental, and without fraud or intention of fraud or evasion, and was purely occasioned by the circumstance before stated, and not otherwise, and that this present application is not made with any fraudulent or collusive intent whatever.

YOUR MEMORIALIST therefore humbly prays that your honours [*or lordships*] will, under the circumstances stated, be pleased [to direct the said deed to be duly stamped, ^(a) and] to forego all or part of the penalty otherwise payable as your honours [*or lordships*] shall think fit.

AND YOUR MEMORIALIST will ever pray, &c.

106. *Memorial to the Commissioners of Inland Revenue to stamp a Deed after an Alteration in the Date.*(b) **Precedent 106.**

To the Honourable, &c. [*as in the preceding Precedent*]. Memorial to stamp a deed after an alteration in the date.
The Memorial of, &c.

(a) Omit this reference to stamping if memorial addressed to the Treasury.

(b) This memorial may be rendered unnecessary by the attesting witness adding the date of the execution in the attestation clause: thus,

SIGNED, &c., by the said A.B. and C.D., on the day of , 18 , in the presence of, &c.

The memorial should be verified by a statutory declaration, which, however, is exempt from stamp duty. For a form see Precedent 222, *post*.

Sheweth,
THAT, &c. [*as in the first paragraph of the preceding Precedent*].

THAT before the said indenture was executed by any of the said parties thereto the word “ ” at the top of the first skin was inserted between the words “ ” and “ ,” [*or was altered to “ ,” or written on an erasure, or as the fact may be*] in my presence, and that such alteration was rendered essential and necessary through the mistake of your Memorialist, and without any intention to evade the stamp duty.

YOUR MEMORIALIST therefore, &c. [*conclude as before, omitting the words “and to forego,” &c.*].

AND YOUR MEMORIALIST will ever pray, &c.

**Precedent
107.**

107. *Memorial for the Grant of a Certificate of Naturalization.*(a)

Memorial for the grant of a certificate of naturalization.

To the Right Honourable [*here insert the names and titles (if any) of the Home Secretary for the time being*] Her Majesty's Principal Secretary of State for the Home Department.

The Humble Memorial of A.B., of &c.

(a) See hereon 33 Vict. c. 14, 33 & 34 Vict. c. 102, and 35 & 36 Vict. c. 39, and the Regulations of the Home Secretary made in August, 1870, and January, 1871, in reference to the manner of making and the evidence necessary to support applications for certificates in the three cases specified in sect. 7 of “The Naturalization Act, 1870,” cited, *supra*, viz.:

1st. Any alien.

2nd. Any person who has been already naturalized.

3rd. Any person desirous of readmission to British nationality.

For the forms of declaration required in verification of the statements contained in the applicant's memorial see Precedents 223 and 224, *post*.

Sheweth,

1. THAT YOUR MEMORIALIST was born at , in the Kingdom [*or Empire, or Republic*] of , and that he is still a subject or citizen.

2. THAT your Memorialist is years of age, and is by trade or business a , and carries on such trade or business at , in the county of .

3. THAT your Memorialist has resided at afore-said years and upwards.

4. THAT your Memorialist is married, and has children.

5. THAT your Memorialist is a housekeeper, and has been such for the last years, and has a fixed domicile at No. , Street afore-said, where he has resided for the last years.

6. THAT your Memorialist intends to reside permanently within the United Kingdom, and is loyally affected towards Her Majesty the Queen, her Government, and the institutions of this country.

7. THAT your Memorialist is desirous to be enabled to become a registered owner of British ships [*or as the fact may be*], and to enjoy the rights and capacities of a natural-born British subject, except such as are by law excepted.(a).

8. THAT your Memorialist is ready and willing to take the oath prescribed by the Naturalization Acts, 1870.

(a) Formerly aliens might purchase, but they held for the benefit of the Crown (Sug. V. & P. 684); and if real estates were devised to British-born subjects upon trust for the benefit of aliens, the trust was in equity executed for the benefit of the Crown: (*Barrow v. Wadkin*, 24 Beav. 327). But now real and personal property of every description, except a British ship, may be taken, acquired, held, and disposed of by an alien in the same manner in all respects as by a natural-born British subject, and a title to such property may be derived through, from, or in succession to an alien (33 Viet. c. 14, ss. 2 and 14), but the Act is not retrospective: (*Sharp v. De St. Sauveur*, 41 L. J. Ch. 576).

YOUR MEMORIALIST, therefore, humbly prays that you will be pleased, in pursuance of the power and authority given to you, to grant to him, upon his taking the said oath, your certificate granting to him all the rights and capacities of a natural-born British subject, except the capacity of being a member of the Privy Council or a member of either House of Parliament, and except such other rights and capacities as are by law excepted.

AND YOUR MEMORIALIST will ever pray, &c.

A. B.

Notices.

Precedent 108.

Notice to a
yearly tenant
to quit.

108. *Notice to a yearly Tenant to quit.*(a)

To A.B., of &c. [*tenant*].

I HEREBY GIVE YOU NOTICE to quit, and deliver up on day next the peaceable and quiet possession of ALL, &c. [*parcels*] which you hold of me as tenant from year to year; [*If date of commencement of tenancy uncertain continue*] provided your tenancy originally commenced at day, or otherwise that you quit and deliver up the peaceable and quiet possession of the said premises, at the end of the (b) year of your tenancy

(a) It is not necessary that a written notice to quit should be given unless stipulated for, or for the purpose of, enabling the landlord to recover double value of the premises, under 4 Geo. 2, c. 28, s. 1. Under 11 Geo. 2, c. 19, s. 18, the notice to quit needs not be in writing: (*Timmins v. Rowlinson*, 3 Burr. 1603.) As to the requisite notice in the case of a weekly tenancy, see *Jones v. Mills* (10 C. B. Rep. N. S. 788).

(b) It is better not to use the expression *current year*: (*Doe dem. Mayor of Richmond v. Morphitt*, 7 Q. B. 577).

which shall expire next after the end of one half year,
from the time of your receiving this notice.(a)

DATED the day of 18 .

C.D. [*landlord*].

[by (*if so*) Y.Z., his agent.]

109. Notice to a Lessee to Repair.(b)

**Precedent
109.**

To A.B., of &c. [*lessee*].

IN PURSUANCE of an indenture of lease, dated the
day of 18 , I HEREBY GIVE YOU NOTICE that upon
a view and examination of the premises, No. in

Notice to a
lessee to
repair.

Street, demised to you by the said
lease, I find that the repairs mentioned at the foot hereof
are required and necessary to put the said premises in
good and tenantable order, in accordance with your
covenants contained in the said lease. AND I FURTHER
GIVE YOU NOTICE that I now require you to cause the same
premises to be well and sufficiently repaired, and amended,
in a workmanlike manner with good materials, within
months next after this notice shall have been
given to, or left for you, upon the said premises. AND
on failure of your compliance herewith, I shall adopt
such proceedings against you as I may be advised.

DATED the day of 18 .

C.D. [*lessor*].

PARTICULARS OF REPAIRS referred to.

(a) See *Hirst v. Horn* (6 M. & W. 393); *Doe v. Scott* (6 Bing. 362); and *Morgan v. Davies* (3 C. P. Div. 260).

(b) See *Few v. Perkins* (16 L. T. Rep. N. S. 62); and *Makin v. Watkinson* (40 L. J. Ex. 33).

110.

**Notice by a
landlord to
sheriff of un-
satisfied claim
for rent.**

DATED the day of 18 .
A.B. [*landlord*].

111.

Notice by a lessor to determine a lease for breach of covenants and non-payment of rent.

(a) See 8 Anne, c. 14, s. 1; and 7 & 8 Vict. c. 96, s. 67. As to goods taken under the warrant of a County Court, or under process of the Admiralty Court, see 19 & 20 Vict. c. 108, s. 75; and 24 Vict. c. 10, s. 16.

empowering the said G.H. to re-enter and determine the said term. AND WHEREAS the covenants, conditions, and agreements contained in the said lease have been broken in several respects, and in particular by the non-payment of the said rent of £ , at the times and in manner thereby specified for payment thereof, and there is now due and owing the sum of £ , being quarters' rent, and the sum of £ , the amount of one quarter's rent payable in advance. Now I GIVE YOU NOTICE that it is the intention of the said G.H. to re-enter and take possession of the said premises demised by the said lease as in his former estate, and to determine and make void the same, and the tenancy and term thereby created. AND I GIVE YOU FURTHER NOTICE, and hereby require you to quit and deliver up the peaceable possession of the said premises to the said G.H., or to such person as he shall appoint, within days from the date hereof, or in default of your so doing I shall institute and take such proceedings against you as I shall deem advisable.

DATED the day of 18 .
Y.Z. [*solicitor to lessor*].

112. *Notice by Vendors to Tenant of a Purchaser (who failed to perform his Contract) to pay Rent to them.* **Precedent 112.**

To A.B., of &c. [*tenant*].

WE BEG TO GIVE YOU NOTICE that by an indenture dated, &c., and made between M.N., of &c. [*purchaser*], of the one part, and ourselves of the other part, the said M.N. did release and quit claim to us, our heirs, executors, administrators, and assigns, the premises now in your occupation, situate in or near Terrace,

Notice by vendors to tenant of a purchaser (who failed to perform his contract) to pay rent to them.

Road, , together with other premises also situate there, which several premises were in the year 18 contracted to be sold by us to the said M.N., which contract the said M.N. failed to perform, and in respect thereof became indebted to us to a large amount. AND WE FURTHER GIVE YOU NOTICE not to pay any rent now due or hereafter to become due from you for the use and occupation of the said premises to the said M.N., or any other person than to Mr. Y.Z., whom we have appointed our agent to receive the same, and whose receipt shall be your discharge.

DATED the day of , 18 .
C.D. and E.F. [*vendors*].

Precedent 113. *113. Notice of an Application to Justices to eject a Tenant holding over.*

To A.B., of &c. [*tenant*].

Notice of an application to justices to eject a tenant holding over.

I, C.D., of &c., owner [*or agent (a) to the owner*] do HEREBY GIVE YOU NOTICE that unless peaceable possession of the tenement consisting of &c. [*here insert particulars*], situate which was held of me [*or of the said C.D.*] under a tenancy from , which was determined by notice to quit from me [*or the said C.D.*] on day, the day of , 18 , provided your tenancy commenced on that day of the year; but if your tenancy commenced on any other day of the year, then that you were thereby required to quit and deliver up to me the possession of the said tenement and

(a) "Agent" shall be taken to signify any person usually employed by the landlord in the letting of the premises or in the collection of the rents thereof, or specially authorised to act in the particular matter by writing under the hand of such landlord: (1 & 2 Vict. c. 74, sect. 7).

premises at the expiration of one current half-year next after the service of that notice, and which tenement is now held over and detained from the said last-mentioned day be given to [the owner or agent] on or before the expiration of seven clear days from the service of this notice I shall on day next, the day of instant, at o'clock in the noon of the same day, at the police court in Street, within the borough of aforesaid, (a) apply to Her Majesty's justices of the peace in petty sessions assembled and acting for the said borough, to issue their warrant directing the constables of the said district to enter and take possession of the said tenement, and to eject any person therefrom. (b)

DATED the day of , 18 .
C.D. [landlord].
[or Y.Z. agent].

114. *Notice of the Dissolution of a Partnership* **Precedent**
for the Gazette. **114.**

NOTICE IS HEREBY GIVEN that the partnership heretofore subsisting between us the undersigned A.B., C.D., and E.F., at , in the county of , as under the style or firm of "B.D. and Co.," was on the day of , 18 , dissolved by mutual consent. All debts owing from or due to the

Notice of the
dissolution of
a partnership
for the
Gazette.

(a) The place of application should be specified: (*Delaney v. Fox*, 1 C. B. N. S. 166).

(b) Summary proceedings can only be taken before two justices where the term does not exceed seven years, nor the rent £20, no fine being reserved (1 & 2 Vict. c. 74); and in a County Court where neither the rent nor the value of the premises exceeds £50 per annum, and no fine or premium paid (19 & 20 Vict. c. 108, s. 50). Under the first-mentioned act no costs can be awarded.

late firm will be discharged or received by the said E.F., who for the future will carry on the business on his own account.(a)

DATED the day of , 18 .
A.B., C.D., and E.F. [*partners*].

Precedent 115. 115. *Notice by a Mortgagee to a Tenant to pay Rent to him.*

Notice by a mortgagee to a tenant to pay rent to him.

To A.B., of &c. [*tenant*].

I HEREBY GIVE YOU NOTICE that by an indenture dated, &c., and made between C.D. of the one part, and me the undersigned E.F. of the other part, the hereditaments and premises situate at , in the county of , and now in your occupation, were granted [*or assigned*] to me, my heirs [*or executors, administrators*], and assigns by the said C.D. to secure the principal sum of £ , and interest thereon after the rate of £ per cent. per annum on a certain day now long past, which principal sum is still due and owing, together with an arrear of interest thereon. Now I HEREBY GIVE YOU FURTHER NOTICE and require you to pay to me the rent now, and at any time hereafter to accrue due in respect of your said occupation, and on no account after the receipt hereof to pay any rent which may be now due and unpaid, or at any time hereafter accrue due in respect of the said premises to the said C.D. during the continuance of the said mortgage security, or to any

(a) A statutory declaration verifying the signatures of all the partners must be made before this notice, if signed in the provinces, will be inserted in the *Gazette*, though if signed in London it is customary for the notice to be inserted without any declaration on its being presented attested by a known practising solicitor.

persons (a) having any claims or demands upon or against the estate of A.B., late of Street , in the county of deceased (who died [*if so*, intestate] at aforesaid, on the day of , 18 , and whose will was proved by [*or* letters of administration to whose personal estate [*or (if so)* to whose unadministered personal estate], and effects were granted to] C.D., of &c., in [*or by*] Her Majesty's High Court of Justice at the Principal Registry [*or* the District Registry at] of the Probate Division thereof, on the day of 18), are hereby required, pursuant to the twenty-ninth section of the Act of Parliament of the 22 & 23 Vict. c. 35, intituled "An Act to further amend the Law of Property, and to relieve Trustees," to send, in writing, particulars of their claims or demands to the undersigned Y.Z., the solicitor of the said C.D., at his office, No. , Street, aforesaid, on or before the day of , after which day the said C.D. will proceed to distribute the assets of the said A.B. among the parties entitled thereto, having regard only to the debts, claims, and demands of which the said C.D. has then had notice, and that he will not be answerable or liable for the assets, or any part thereof, so distributed

chant Treatise on the Statutes for the Amendment of the Law of Property, says, in his comment on this portion of the section, "it appears to be the practice of the Court of Chancery to insert the advertisement for creditors once in the *London Gazette*, twice or three times in the *Times*, and twice or three times in at least two of the principal local papers where the testator [*or* intestate] resided or carried on any business; and, where there is any reason to suppose the testator [*or* intestate] resided for any time or contracted debts abroad, the advertisement is also inserted in such foreign newspapers. Five is the minimum number of times of inserting the advertisement in any case including the *Gazette*:" (see pp. 325, 326); see also *Clegg v. Rowland* (15 L. T. Rep. N. S. 385); and *Wood v. Weightman* (L. Rep. 13 Eq. 434).

(a) See *Newton v. Sherry* (1 C. P. Div. 246).

to any person or persons of whose claim or demand the said C.D. has not had notice at the time of such distribution.

DATED the day of 18 .
Y.Z.

Solicitor for the said C.D.

118. *A shorter Form of a similar Notice.*

**Precedent
118.**

A.B. deceased.

NOTICE IS HEREBY GIVEN that all Creditors of A.B. late of A shorter
Street, in the county of who died in or form of a
about the month of are on or before the similar notice.
day of to send particulars of their
debts or claims to the office of Mr. Y.Z. at or
in default thereof the executor [*or administrator*] of the
said A.B. will after the said day of dis-
tribute the assets of the said A.B. amongst the parties
entitled thereto having regard to the claims only of
which he has then notice.

DATED the day of 18.
Y.Z.

Solicitor to the Executor [*or Administrator*].

119. *Notice of the Adoption of an Additional Surname.* (a) **Precedent
119.**

NOTICE IS HEREBY GIVEN that I, A.B.C., lately called and known by the name of A.B., and late of &c., but now of &c., have taken and adopted the surname of "C." in addition to the surname of B., and that I, the said A.B.C., now do, and will at all times hereafter, in all deeds and

Notice of the
adoption of an
additional
surname.

(a) See hereon *Barlow v. Bateman* (3 P. Wms. 65); *Davies v. Lowndes* (1 Bing. N. C. 597); and *Hansard*, vol. clxvii. 3rd series. p. 430.

writings, and in all dealings, and for all purposes on all occasions whatsoever, use the names of B. and C., as and for my proper surname. AND FURTHER, that I have united the quarterings of the arms of the family of "C." of &c., with my hereditary arms of the family of B.

DATED the day of 18 .

Precedent 120. *Notice to an Executor of an Assignment of Interest under Will.*

To A.B., of &c., executor of the will of C.D., deceased.

Notice to an executor of an assignment of interest under will.

I BEG TO GIVE YOU NOTICE that by an indenture bearing date, &c., and made between E.F., of &c. [*assignor*], of the one part, and me the undersigned G.H., of &c., [*assignee*], of the other part, for the valuable considerations therein mentioned, the said E.F. did thereby assign unto me, the said G.H., my executors, administrators, and assigns, ALL the interest of the said E.F., in the sum of £ , appointed by the will of the said C.D., and in the investments thereof, with [*if so*] power for me, my executors, administrators, and assigns, to demand, sue for, recover, and give valid receipts for the interest, dividends, and annual income of the said trust premises, in the name of the said E.F. AND all the estate for the life of the said E.F., in the premises. To HOLD the same unto me, my executors, administrators, and assigns.

DATED the day of 18 .

G.H. [*assignee*].

Precedent 121. *Notice of an absolute Assignment of Interest in a Life Policy.*

To the Directors of the Company.

Notice of an absolute assignment

IN PURSUANCE of "The Policies of Assurance Act, 1867," I BEG TO GIVE YOU NOTICE that by an indenture dated, &c.,

and made between A.B., of &c. [assignor], of the one of interest in
part, and myself of the other part, the said A.B. as a life policy.
assigned unto me, my executors, administrators, and
assigns, upon certain trusts therein contained, the policy
of assurance effected by the said A.B., upon his own
life, for £ in the Company, on the
day of 18 , and numbered , together
with all moneys payable thereunder, and with power to
me to sue for, recover, and give effectual releases and
discharges for the moneys thereby assured.(a)

DATED the day of 18 .
C.D. [*assignee*].

122. Notice of an Assignment of the Equity in a Life Policy.

**Precedent
122.**

To the Directors of the Company.

IN PURSUANCE of "The Policies of Assurance Act, 1867," I BEG TO GIVE YOU NOTICE that by an indenture dated &c., and made between, &c. [*parties*], ALL that policy, &c. [*parcels*], was thereby assigned, by the said A.B. [*assignor*], unto me, my executors, administrators, and assigns absolutely, subject to the payment of the sum of £ , then due to the said company, and charged with interest on the said policy, and of all interest thereafter to accrue due on the same, and subject also to the payment of all moneys thenceforth to become payable for keeping on foot the said policy.

Notice of an assignment of the equity in a life policy.

DATED the day of 18 .
C.D. [assignee].

123. *Notice of a Mortgage of a Life Policy.*

**Precedent
123.**

To the Directors of the Company. 123.

IN PURSUANCE of "The Policies of Assurance Act, 1867," Notice of a mortgage of a life policy.

(a) This power is now mere surplusage. See 30 & 31 Vict. c. 144. s. 1. and 36 & 37 Vict. c. 66, sect. 25, sub-sect. 6.

C.D. [assignee].

124.

Notice to a mortgagee of a second mortgage of freeholds.

DATED the day of 18 .

C.D. [*second mortgagee*].

(a) The acknowledgment of these notices is now rendered obligatory upon insurance offices, on payment of a fee not exceeding 5s. (30 & 31 Vict. c. 144, s. 6.)

125. Notice to a Depositary of a Charge on a Lease.

**Precedent
125.**

To A.B. of &c. [*depository*].

PLEASE TO TAKE NOTICE that by an agreement, (a) dated, &c., and made between C.D., of &c. [*lessee*], of the one part, and me the undersigned E.F., of &c. [*mortgagee*], of the other part, in consideration of £ , then lent by me to the said C.D., he did thereby charge ALL his interest in a certain indenture of lease dated, &c., of All that, &c. [*parcels*], with the appurtenances now in his own occupation for the residue of a term of years from the day of 18 , subject to the rent, covenants, and conditions therein reserved and contained, which lease is deposited with you, and held for the mutual benefit of lessor and lessee. AND the said C.D. did thereby also charge the goodwill in trade, and the fixtures, furniture, utensils, and effects, in the said premises, and the possession thereof as a good equitable security for the repayment to me of the sum of £ , and such further sums and interest as therein mentioned. AND the said C.D. agreed, on request, to execute and deliver to me a legal mortgage of the said premises with such power of sale and other powers as I should require to be inserted therein.

DATED the day of 18 .

E.F. [*mortgagee*].

126. Notice demanding Payment of Money (payable on demand) under a Bill of Sale.(b)

**Precedent
126.**

To A.B., of &c. [*mortgagor*].

I HEREBY DEMAND and require you to pay on demand to

(a) The precedent to which this notice has reference is Precedent 86, *ante*, p. 128.

(b) As to moneys payable on demand, and the requisite notice, see *Toms v. Wilson* (11 W. R. 117); *Brightly v. Norton* (*Ibid.* 167); and *Massey v. Sladden and others* (38 L. J. Ex. 34.)

Notice demanding payment of moneys (payable on demand) under a bill of sale.

the bearer Mr. Y.Z., whom I, the undersigned C.D. [*mortgagee*], have appointed to receive the same in my name and for my use, the sum of £ , being the amount of principal money and interest now due and owing to me, upon or by virtue of a certain indenture dated, &c., and made between you the said A.B. of the one part, and myself of the other part, whereby certain were assigned to me for securing the principal money and interest therein mentioned. AND I GIVE YOU NOTICE that, on failure of your complying herewith, I shall take such steps as may be necessary for obtaining possession of, and selling the said premises, pursuant to the power for that purpose in the said indenture contained.(a)

DATED the day of 18 .
C.D. [*mortgagee*].

**Precedent
127.**

Notice de-
manding
possession
of goods.

127. Notice demanding Possession of Goods.

To A.B., of &c.

AS SOLICITOR for Mr. C.D., of &c. [*claimant*], and duly authorised 'by him in his behalf, I HEREBY GIVE YOU NOTICE and require you forthwith to deliver to the said C.D. the several articles of household furniture and effects now in your possession, belonging to him, that is to say:—[*here insert inventory of goods*]. AND I GIVE YOU FURTHER NOTICE that unless you forthwith deliver possession thereof, an action will be commenced against you for their recovery and for damages for the conversion and detention thereof.

DATED the day of 18 .(b)
Y.Z. [*solicitor*].

(a) This latter clause may be omitted, if considered inexpedient to apprise the mortgagor of the mortgagee's intentions on non-compliance with his demand.

(b) Some such notice as this is usually made before commencing an action of trover in order to prove the conversion; for if the

128. *Notice of Claim to Goods seized under a Bill of Sale, or a Writ of Execution.* **Precedent 128.**

To A.B., of &c., C.D., his solicitor, E.F., officer in possession, his assistants, and others.

I HEREBY GIVE YOU, and each of you, NOTICE as solicitor for Y.Z., of &c., that the goods, chattels, and effects, seized by you under colour or pretence of a bill of sale, alleged to have been given by one G.H. to the said A.B. Notice of claim to goods seized under a bill of sale, or a writ of execution.
[or, if seized under writ, say, pretence of an execution issued at the suit of the said A.B.], belong to the said Y.Z., and not to the said A.B. AND as such solicitor I GIVE YOU and each of you, FURTHER NOTICE that, unless you forthwith deliver up possession to the said Y.Z. of the said goods, chattels, and effects, so seized by you, or some or one of you, an action will immediately be commenced against you for recovery thereof and for redress. •

DATED the day of 18 .
M.N. [*solicitor*].

129. *Notice to a Builder to proceed according to his Contract.*(a) **Precedent 129.**

To A.B. of &c. [*builder*].

I HEREBY GIVE YOU NOTICE and require you forthwith to proceed diligently, and in a proper and workmanlike manner, with the erection and completion, pursuant to your contract with me, dated, &c., of the dwelling houses situate, &c. AND that in case you shall neglect or refuse to proceed with the erection and completion thereof in

Notice to a builder to proceed according to his contract.

defendant is in possession of the goods, and refuses to deliver them up when demanded, such refusal is evidence to induce a jury to presume a conversion: (*Selwyn's Nisi Prius*, 1375.)

(a) The contract to which this notice has reference is Precedent 72, *ante*, p. 102. For a more formal notice and precedent see the case of *Walker v. L. and N. W. B. Railway Company*, cited, *ante*, p. 100.

manner aforesaid for _____ days after the service hereof, that I shall then enter into and upon the said premises, and employ such other builders and workmen as may be necessary to complete and finish the said premises, at your risk and expense, or sell the same either finished or unfinished, as I may be advised. AND that I shall take all such proceedings by sale, or otherwise, as may be requisite for the purpose of completing the said contract, and obtaining payment of all such moneys as shall be owing to me under the said contract, without any further notice.

DATED the _____ day of _____ 18 .
C.D. [*proprietor.*]

**Precedent
130.**

130. Notice to determine a Partnership.(a)

Notice to
determine a
partnership.

To A.B., of &c.

I HEREBY GIVE YOU NOTICE, pursuant to the provision in this behalf, contained in our partnership articles, that it is my intention to determine our partnership on the expiration of _____ calendar months from the time of your being served with this notice.

DATED the _____ day of _____ 18 .

C.D.

**Precedent
131.**

**131. Notice to Carriers (b) by a Vendor of Goods
not to deliver same to the Purchaser.**

Notice to
carriers by a
vendor of
goods not to
deliver same
to the pur-
chaser.

To the _____ Railway Company and to A.B., their
Goods Manager, at _____

I BEG TO GIVE YOU NOTICE that _____ cases of
which were delivered by me to you, at _____, for

(a) As to death of partner giving such a notice before it expires, see *Bell v. Nevin* (15 W. R. 85).

(b) To make a notice effective as a stoppage *in transitu*, it must be given at such a time and under such circumstances that the

carriage to _____, and now in your possession, and lying at your station in _____ Street, _____, undelivered, addressed by me to Messrs. C.D. and Co., of &c., for shipment, at the request of Messrs. E.F. and Co., of &c. [*purchasers*], are my own property, and that I am the vendor thereof, and that the said goods are now in transit, and were purchased from me by the said E.F. and Co., by whose direction I forwarded the same for shipment to the said C.D. and Co., and that the said E.F. and Co. have since become insolvent and suspended payment, and that the said C.D. and Co. have no claim to or interest whatever in the said goods. AND I FURTHER GIVE YOU NOTICE not to deliver the said cases, or any of them, to the said C.D. and Co., or to any other persons or person, but to hold the same to my order and for my use. AND I hereby undertake to indemnify you from all loss, damages, and expenses, to be sustained by you, by reason or in consequence of your retaining the said goods in pursuance of this notice, and that if you deliver the same contrary thereto I shall hold you responsible for all loss or expenses I may sustain by reason thereof.

DATED the _____ day of _____ 18 ____ .
 _____ G.H. [*vendor*].

132. Notice of the Transfer of a Mortgage Debt by a Marriage Settlement. **Precedent 132.**

To A.B., of &c. [*mortgagor*].

PLEASE TO TAKE NOTICE that by an indenture dated &c., and made between C.D., of &c., of the first part, E.F.,

Notice of the transfer of a mortgage debt by a marriage settlement.

company, by the exercise of reasonable diligence, may communicate it to their servants in time to prevent the delivery of the goods to the consignee: (*Whitehead v. Anderson*, 9 M. & W. 518); and see, generally on this subject, *Litt. v. Cowley* (7 Taunt. 168); *Stokes v. La Rivière* (cited 3 East, 397); and *Jackson v. Nichol* (5 Bing. N. C. 518).

of &c., of the second part, and G.H. and J.K., of &c., of the third part, in consideration of the intended marriage between the said C.D. and E.F., and for other considerations therein mentioned, the said E.F., with the privity and consent of the said C.D., did grant and assign unto the said G.H. and J.K., their executors, administrators, and assigns, ALL that sum of £ , invested with other moneys in the names of the said E.F., and her sisters F.F. and G.F., on security of a mortgage, dated &c., of hereditaments and premises, situated in Street, , from you and all interest then due, or thereafter to accrue due, upon the same, together with full power to sue for, recover, and receive and give effectual releases and discharges for the same. To HOLD the said moneys unto the said G.H. and J.K., their executors, administrators, and assigns, upon certain trusts therein mention.(a)

DATED the day of 18 .

Y.Z. [*trustees' solicitor*].

(a) In reference to the service of this and similar notices to trustees, mortgagees, &c., the Incorporated Law Society of Liverpool, of which the writer is a member, lately passed the subjoined resolution :—

“That the committee, having taken into consideration the effect of the recent decision in the case of the *Saffron Walden Second Benefit Building Society v. Rayner* (14 Ch. Div. 406), are of opinion that the practice of solicitors to trustees and mortgagees, &c., accepting service of notices of incumbrances or other assurances should be discontinued.

“That in the opinion of the committee it would, in most cases, be found convenient that the solicitor to the trustees or mortgagees should be employed to obtain his clients' personal acceptance of service, and that a fee of 6s. 8d. for each trustee or other person to whom the notice is given should be paid by the person giving the notice to the solicitor so employed, such fee to include correspondence. The solicitor giving the notice to provide a copy of the notice for each trustee, &c., a copy for the solicitor, and a copy to return.”

the undersigned E.F., of the other part, the said C.D., for the considerations therein mentioned, did thereby charge all his estate and interest in a certain agreement, dated &c., and made between yourself, of the one part, and the said C.D., of the other part, of ALL, &c. [*parcels*], together with the messuages or dwelling houses now erected or in course of erection by the said C.D. thereon, as a good equitable security to me the said E.F., my executors, administrators, and assigns for payment to me or them of the sum of £ , and such further sums and interest as therein mentioned. AND the said C.D. agreed on request to execute and deliver to me, my executors, administrators, or assigns a legal mortgage of the said premises with such power of sale and other usual powers as I or they should require to be inserted therein. AND the said C.D. did thereby direct that in the event of a sale by you of the said premises under the powers in that behalf contained in the said agreement of the day of 18 , the surplus moneys arising from such sale should be paid to me, my executors, administrators, or assigns upon certain trusts therein mentioned, and that my or their receipt should be a sufficient discharge for the same.

DATED the day of 18 .

E.F. [*mortgagee*].

Precedent 135. *Notice to Vendors of Land contracted to be sold of Further Charge by the Purchaser.*
135.

To A.B. and C.D., of &c. [*vendors*].

Notice to vendors of land contracted to be sold of further charge by the purchaser.

I BEG TO GIVE YOU NOTICE that by an agreement, dated &c., and signed by E.F., of &c. [*purchaser*], the said E.F., for the considerations therein mentioned, did thereby further charge for securing to me, the undersigned G.H., of &c., certain sums of money therein mentioned, ALL the interest of the said E.F., in a certain

contract, dated &c., and made between yourself, of the one part, and the said E.F., of the other part, and all the benefit, and advantage derivable from such contract, and all the interest of the said E.F., in the piece of land therein described, and thereby contracted to be sold by you to the said E.F., together with all buildings since erected thereon by the said E.F.

DATED the day of 18 .
G. H. [*mortgagee*].

Partnership Arrangements.

136. *Articles of Partnership.*

Precedent.
136.

ARTICLES OF AGREEMENT made, &c., BETWEEN A.B., of &c., of the one part, and C.D., of &c., of the other part. Parties.
WITNESSETH that the said parties, having agreed to enter Witnesseth.
into partnership, do hereby agree the one with the other
of them as follows:—

1. They shall become and remain co-partners in the Agreement to
business of for the term of years become co-
from the day of 18 , under the partners.
style or firm of “ .”
2. The business shall be carried on at No. , in Place of
Street, , of which premises the business.
said partners have obtained as part of their
partnership estate a lease for a term of
years, or at such other place or places as shall be
agreed upon between them.
3. The said partners shall be true and faithful to each Partners to
other, and each partner shall devote his whole devote whole
time to, and diligently employ himself in, the time to the
business of the partnership, and carry on the same business.

for the greatest advantage; and neither partner shall directly or indirectly engage in any business except the business of the partnership, and upon account thereof.

Capital.

4. The capital of the said partnership shall consist of the sum of £ , now brought into the business by the said A.B., and of the sum of £ now brought into the business by the said C.D., and such further sums of money to be advanced by the said partners in equal proportions as shall be required from time to time for carrying on the same, each partner to be allowed interest after the rate of £ per cent. per annum on all capital employed, advanced, or brought in by him.

Profits and losses to be borne equally.

5. The clear profits of the partnership, after paying thereout all rents, rates, taxes, wages, salaries, and expenses of carrying on the business, and the interest in respect of capital, shall be divided equally between the said partners, and all losses shall be borne by them in equal proportions, unless incurred through the wilful neglect or default of either, in which case the loss shall be made good by the defaulting partner.

Partners to be at liberty to draw certain amounts for maintenance.

6. The said partners shall be at liberty to draw out of the profits for maintenance any sum not exceeding £ per each, all such sums to be entered in the cash-book, and to be duly accounted for by them respectively on every settlement of accounts and division of profits; and any excess of drawings beyond the profits shall be repaid when ascertained, and, until paid, shall be considered a debt due to the partnership.

Neither partner to employ partnership

7. Neither party shall, without the written consent of the other, employ any partnership moneys or effects, nor sign or use the name of the firm, nor

engage the credit thereof, except for ordinary partnership purposes; nor, without the consent of the other, buy or enter into any contract for the purchase of any stock for the purpose of the business exceeding the price of £ ; nor transact any business or enter into any contract with, or give credit to, any person after he shall be requested by the other not to do so; nor, without the consent of the other, compound, release, or discharge any debt owing to the partnership, or draw, accept, or indorse, any bill of exchange or promissory note, or contract any debt on account of the partnership out of the regular course thereof; nor, without such consent, employ or discharge or enter into any engagement with any clerk, foreman, or other servant whatsoever, or enter into any bond, or become bail, surety, or security for any person.

8. Books of account shall be kept, and proper entries made therein daily of all sums received or paid, all work done, and all goods bought, sold, received, or delivered, and all other transactions usually entered into books of account, kept by persons engaged in the like business. Books of account to be kept.
9. On the day of next, and on the day of in every subsequent year of the said term, a general account shall be made and taken of all moneys, stock, effects, debts, and things belonging or due and owing to the partnership, and of all moneys, debts, and liabilities due or owing by the partnership, and of all other things included in like accounts, and a just valuation made of the particulars in such account capable of valuation, and two copies of the account and valuation shall be made, and each copy signed by both partners, who shall Half-yearly accounts and valuations to be made.

each keep one such copy and be bound thereby; but if any manifest error be found therein by either, and signified to the other within six calendar months after the same shall have been signed, such error shall be rectified.

Power to determine the partnership.

10. If either of the said partners shall desire to terminate the said partnership, and shall give six calendar months' previous written notice of such desire to the other, or leave it at the place of business for the time being, then the partnership shall determine at the expiration of such six calendar months.

Provision for ascertaining amounts due to the partners at expiration or dissolution (other than by death) of the partnership.

11. On the expiration of the said term of years, or on the earlier dissolution of the said partnership (as in clause 10 provided), the stock, credits, and effects, and the debts and liabilities of the partnership shall be forthwith ascertained, and in case the parties cannot agree, the same shall be valued by competent persons to be appointed as follows:—Each partner shall appoint one such person, and the persons so appointed shall appoint a third valuer, and the valuation of such three persons, or any two of them, shall be final. And in case the said partnership shall be dissolved by notice as aforesaid, the partner to whom such notice shall be given shall have the option of purchasing the share and interest in the partnership of the partner giving such notice, and if he shall purchase it, then he shall pay and discharge all the debts and liabilities of the partnership, and indemnify the other therefrom; but if the partner to whom such notice shall be given shall decline to purchase, then the partner giving such notice shall have the option of purchasing the share of the partner receiving notice, and if he shall receive it, then he shall pay and discharge

all the debts and liabilities, and indemnify the other therefrom; but in case both partners decline to purchase, then, and in the event of the determination of the partnership by effluxion of time, or in any other manner than by notice or by the death of either partner (as in clause 12 provided), the said stock, credits, and effects, with the goodwill^(a) of the said business, shall be forthwith collected or converted into money, and thereout all debts and partnership liabilities shall be discharged, and it shall be ascertained what amount of profits each partner shall be then entitled to, and the surplus moneys (if any) shall be employed in or towards payment rateably of the respective amounts then due to the said partners.

12. If either partner shall die during the said term, the stock, credits, and effects, and the debts and liabilities of the partnership shall be forthwith ascertained, and in case of difference as to the value thereof, the same shall be valued by competent persons to be appointed as follows:— Each of them, the surviving partner, and the representatives of the deceased partner, shall appoint one such person, and the persons so appointed shall appoint a third valuer, and the valuation of such three persons, or any two of them, shall be final, and the surviving partner shall have the option of purchasing the share and interest of the deceased partner at the amount of such valuation, and if he shall so purchase them he shall pay to the executors or administrators of the deceased partner one of the purchase-money

The like in case of either partner's death.

(a) If the whole concern and the goodwill are sold, the trade-name is sold with it (*Banks v. Gibson*, 34 Beav. 566); *aliter* if there is merely a division of the common property between the partners (*Ibid.*) And see *Scott v. Rowland*: (26 L. T. Rep. N. S. 391).

within calendar months after the date of such purchase, another part thereof within calendar months after such date, and the balance thereof within calendar months after the date of such purchase, with interest for the said sums respectively after the rate of £ per cent. per annum, to be computed from the death of the partner to the date of payment, and shall give security for such purchase-money and interest to the satisfaction of the executors or administrators of the deceased partner; and the surviving partner shall also pay and discharge all the debts and liabilities of the partnership, and indemnify the said executors or administrators therefrom; but if the surviving partner shall decline to purchase and secure the payment thereof as aforesaid, then the stock, credits, and effects with the goodwill of the same business shall be forthwith collected or converted into money, and thereout all debts and partnership liabilities shall be discharged, and it shall be ascertained what amount the surviving partner, and the representatives of the deceased partner shall be respectively entitled to, and the surplus moneys (if any) shall be applied in or towards payment of the respective amount then due to such partner and representatives as aforesaid.

Power to amend or add to articles of partnership and to extend the term.

13. If at any time during the said term of years the said partners shall find it necessary to add to or amend these presents, or any article or thing herein contained, or to extend the said term, it shall be lawful for them so to do, by any writing signed by them respectively, and such additions, amendments, or extension of term shall be observed and performed in the same manner as if originally herein inserted.

14. And lastly, in case any dispute shall arise on the construction of these presents touching the business or the conduct and management thereof, or the settling, dividing, or applying the profits or losses of the said partnership, or any other cause, matter, or thing relating to the same, then all such disputes shall be referred to arbitration in the usual manner. (a) AS WITNESS, &c.

Provision for referring disputes to arbitration.

137. *Receipt for the Purchase Money of Half-interest in a Business and explaining Articles of Partnership.* **Precedent 137.**

RECEIVED the day of 18 , from A.B., of &c. [*purchaser*], the sum of £ , and his acceptance to my draft [*or his promissory note, as the case may be*] for £ in payment of the sum of £ , the price as agreed on between us for the purchase by him of one equal half part or share of the stock-in-trade, machinery, plant, fixtures, and goodwill of the business of , carried on by me in premises in , the whole whereof is this day agreed and valued between us at the sum of £ . AND IT IS AGREED that, notwithstanding the arrangement mentioned in our articles of partnership bearing even

Receipt for the purchase money of half interest in a business and explaining articles of partnership.

(a) *If the partnership is to be a limited one Clause 3 should be modified and a clause to the subjoined effect should be inserted in the articles :—*

This partnership shall not extend to or affect any other trade or business now carried on by the said partners respectively at aforesaid, or any trade or concern whatever, now or hereafter to be carried on by the said parties respectively, either alone, or in partnership with any other person or persons at any place or places other than the said joint business.

date herewith for the equal division of the profits and losses between myself and the said A.B., the said A.B. is to be entitled only to one th of the profits and losses until the payment by him at maturity of the said acceptance [or promissory note] for £ , but from the date of payment of such £ the said A.B. is to share equally with me the profits and losses as mentioned in the said articles of partnership. AND IT IS ALSO AGREED that until the payment to me of the said £ the said A.B. shall be only entitled to draw weekly on account of profits for maintenance the sum of in respect of every £ paid by him to me on account of the said sum of £ notwithstanding the arrangement in the said articles in reference thereto.

C.D. and A.B.

Precedent 138. *Memorandum cancelling Articles of Partnership (endorsed).*

Memorandum
cancelling
articles of
partnership.

MEMORANDUM OF AGREEMENT that we have this day adjusted and settled all accounts between us relating to the within-mentioned partnership business, and have paid and discharged, or otherwise provided for, all the debts and liabilities thereof, and hereby dissolve and put an end to the within-written agreement of partnership. AND WE AGREE that the business heretofore carried on by us shall hereafter belong to the undersigned C.D. alone, and he shall be entitled to the whole of the stock-in-trade, implements, utensils and effects of the partnership, and the goodwill thereof, and be entitled to receive all the outstanding debts, assets, rights, and credits of the said business, and shall pay thereout all the liabilities (if any) of the same. AND WE FURTHER AGREE to execute mutual releases to each other in respect of the

DATED the day of , 18 .
A.B. and C.D.

**Precedent
139.**

Parties.

**Recital of
partnership.**

**Determination
of A.B. to
retire.**

And agree-
ment for sale
of share to
C.D.

(a) *Or, if partnership merely verbal*: Whereas the said parties hereto in or about the month of _____, 18____, agreed to become partners together as _____ at _____ aforesaid, but no written articles of partnership were entered into, and they have since carried on the said business and divided the profits and losses between themselves in equal shares.

said partnership unto the said C.D. in consideration of the said C.D. paying to the said A.B. the sum of £ in cash by instalments of £ per , and accepting and delivering to him and duly paying at maturity a certain bill of exchange for the sum of £ , bearing date the day of 18 , drawn by the said A.B. on the said C.D.,

Witnesseth. payable after date. NOW THIS INDENTURE WITNESSETH that in pursuance of the said recited agreements

Consideration. and in consideration of the covenant on the part of the said C.D., for payment of the said sum of £ by instalments, at £ each, and for payment of the said bill of exchange hereinafter contained, the said A.B. doth by these presents assign, transfer, and set over, ratify, and confirm unto the said C.D., his executors, administrators, and assigns, **ALL** that the one equal moiety or half part, and all other the part, share, and interest of the said A.B., of and in all and singular the goods, wares, merchandise, stock-in-trade, profits, capital, credits, fixtures, goodwill, trade-name, books, property and effects belonging or due and owing to the said A.B. and C.D., as such partners as aforesaid. **AND** all the estate and interest of the said A.B., in the tenancies of the places of business occupied by the said partnership. **AND** all the estate, right, title, and interest, both legal and equitable, of the said A.B., of, in, and to the

Parcels. hereby assigned premises, and every part thereof. **To HAVE, HOLD, RECEIVE, AND TAKE** the said one equal moiety, or half part, and all other, the part, share, or interest of and in the said goods, stock-in-trade, profits, capital, credits, fixtures, goodwill, trade-name, books, property, tenancies, and effects, and all and singular other the premises, hereby assigned unto the said C.D., his executors, administrators, and assigns, for his and their own proper goods, chattels, credits, and effects absolutely. **AND** for the better enabling the said C.D., his executors, or

Habendum.

Power of attorney.

administrators, to recover and receive the said partnership credits and effects, the said A.B. doth by these presents constitute and appoint the said C.D., his executors, or administrators, to be the true and lawful attorney or attorneys irrevocable of the said A.B., in the names of the said A.B. and C.D., or in the name or names of the said A.B., his executors, or administrators, or otherwise, as occasion shall require, but for the exclusive benefit and at the sole risk and cost of the said C.D., his executors, or administrators, to ask, demand, sue for, recover, and receive of and from the person or persons to whom it shall or may belong, to pay and deliver the same, all and singular the credits, sum, and sums of money and effects of the said partnership, and to give effectual receipts, or other sufficient releases and discharges for the same, and to employ such legal or equitable ways and means for enforcing the payment and getting in of such credits and effects respectively, as may be deemed expedient, and one or more substitute or substitutes for all, any, or either of the purposes aforesaid, to substitute or appoint, and such substitution or appointment at pleasure to revoke and generally to do, or cause to be done, whatsoever shall be necessary, for giving the said C.D., his executors, or administrators, the full benefit of the assignment hereby made. AND the said A.B. doth hereby, for himself, his heirs, executors, and administrators, covenant with the said C.D., his executors, administrators, and assigns, in manner following (that is to say), that the said A.B. hath not contracted any debt or obligation, whereby or by means whereof the said C.D., his executors, or administrators, or the joint stock and effects of the said partnership, may be charged or prejudiced. AND THAT the said A.B. hath not received or discharged any credits of the said partnership that have not been duly entered in the books of the said partnership, or done, or permitted any act, deed, matter,

Covenant by A.B. that he has done no act to prejudice the partnership.

Nor to incur the share assigned.

For further
assurance.

And not to
revoke the
power of
attorney.

Covenant by
C.D. to pay
consideration
money, rents,
and partner-
ship liabilities.

or thing whatsoever, whereby the share of the said A.B., in the said premises hereby assigned, or any part thereof, can be charged, incumbered, or prejudicially affected. AND THAT the said A.B., his executors, and administrators, shall, and will, from time to time, and at all times hereafter, at the request and cost of the said C.D., his executors, administrators, or assigns, enter into and execute all such further assurances for the more perfectly or satisfactorily vesting the said premises hereby assigned in the said C.D., his executors, administrators, and assigns, or enabling him and them to recover and receive the same as he or they shall require. AND THAT the said A.B., his executors or administrators, will not at any time hereafter revoke or attempt to revoke the power or authority hereinbefore given, nor receive, compound, or discharge any of the said partnership credits, nor release, disavow, become nonsuit, or in anywise interfere in any action or suit that may be commenced or prosecuted by the said C.D., his executors or administrators, in pursuance of the powers and authorities hereinbefore contained in respect of the said hereby assigned premises. AND the said C.D. doth hereby for himself, his heirs, executors, and administrators, covenant with the said A.B., his executors and administrators, that he the said C.D., his executors, or administrators, shall and will well and truly pay unto the said A.B., his executors, administrators, or assigns, the said sum of £ , by instalments of £ , on the day of every , until the whole of the said sum of £ shall be fully paid and satisfied, the first payment to be made on the day of 18 , and shall and will duly pay at maturity to the said A.B. or other the holder thereof the said bill of exchange hereinbefore mentioned for the said sum of £ , and also shall and will pay all rents hereafter to accrue due in respect of the premises occupied for the purpose of the said

partnership business, and will pay all the debts and liabilities owing from the said A.B. and C.D. in respect of the said partnership. AND will from time to time, and at all times hereafter, well and sufficiently protect, defend, save harmless, and keep indemnified the said A.B., his heirs, executors, and administrators, and his and their lands and tenements, goods, and chattels, of, from, and against all costs, damages, and expenses in respect thereof respectively (except such debts, if any, as the said A.B. may have contracted on the partnership account, and not entered in the books thereof), and of, from, and against all costs, damages, and expenses which shall or may be incurred in or about any action, or other proceeding that shall or may be brought or prosecuted by the said C.D., his executors, administrators, or assigns, in the name or names of the said A.B., his executors, or administrators, by virtue of the power or authority hereinbefore contained, or in anywise in relation thereto. AND THIS INDENTURE ALSO WITNESSETH that in consideration of the premises, the said A.B. doth by these presents acquit, release, and discharge the said C.D., his heirs, executors, and administrators, and his and their estates and effects whatsoever and wheresoever (but subject nevertheless, and without prejudice, to the covenants herein contained), from and of all actions, accounts, reckonings, claims and demands whatsoever both at law and in equity, which the said A.B., his heirs, executors, or administrators now hath or ever had, or shall or may at any time or times hereafter have, claim, challenge, or demand against the said C.D., his heirs, executors, or administrators on account of the said hereinbefore-mentioned agreement of partnership, or any clause, agreement, matter, or thing therein contained, or on account of any other matter or thing whatsoever relating to the said partnership business, or in any way

And to indemnify A.B. in respect thereof.

Witnesseth.

Release of C.D.

Witnesseth. connected therewith. AND THIS INDENTURE FURTHER WITNESSETH that in consideration of the premises, the said C.D. doth by these presents acquit, release, and discharge the said A.B., his heirs, executors, and administrators, and his and their estates and effects whatsoever and wheresoever (but subject nevertheless and without prejudice to the covenants herein contained), from and of all actions, accounts, reckonings, claims, and demands whatsoever, both at law and in equity, which the said C.D., his heirs, executors, or administrators now hath or ever had, or shall or may, at any time or times hereafter, have, claim, challenge, or demand against the said A.B., his heirs, executors, or administrators, on account of the said hereinbefore-mentioned agreement of partnership, or any clause, agreement, matter, or thing therein contained, or on account of any other matter or thing whatsoever relating to the said partnership business, or in any way connected therewith. IN WITNESS, &c.(a)

Powers of Attorney.(b)

**Precedent
140.**

140. *Power of Attorney from Partners to draw Bills (concise form).*

**Power of
attorney from
partners to
draw bills.**

KNOW ALL MEN BY THESE PRESENTS that we, A.B. and C.D., of &c., have made, constituted, and appointed, and

(a) These deeds are liable to *ad valorem* duty: (*Christie v. Commissioners of Inland Revenue*, L. Rep. 2 Ex. 46; and *Phillips v. Same*, *Ibid.* 399.) Further, the good-will of a trade is property, and its transfer is also liable to *ad valorem* duty: (*Potter v. Same*, 18 Jur. N.S. 778.)

(b) A power of attorney, if given for a valuable consideration, appears not to be revocable (see Sug. V. & P. 438; *Walsh v. Whit-*

by these presents do make, constitute, and appoint E.F., of &c., our true and lawful attorney for us, and in our names, place, and stead, to sign, endorse, draw, accept, make, execute, and deliver all such notes, cheques, bills, of exchange, and other contracts or instruments in writing, with or without seal; and such verbal contracts as he may deem proper; giving and granting unto our said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as we ourselves, or either of us, might or could do if personally present; with full power of substitution and revocation hereby ratifying and confirming all that our said attorney or his substitute shall lawfully do or cause to be done by virtue hereof. In WITNESS, (a) &c.

141. *Power of Attorney to obtain Letters of Administration to two Estates.*

**Precedent
141.**

TO ALL TO WHOM THESE PRESENTS shall come I, A.B., of &c., send greeting. WHEREAS C.B., the deceased wife of D.B., late of &c., died intestate on or about, &c., leaving the said D.B., her surviving. AND WHEREAS the said D.B. hath since also died, to wit, in or about the month of 18 , a widower, and intestate. Now KNOW ALL MEN BY THESE PRESENTS that I, the undersigned A.B., the natural and lawful and only surviving child of

Power of attorney to obtain letters of administration to two estates.

comb, 2 Esp. Ca. 564; *Smart v. Sanders*, 5 C. B. 916); but, whether for a valuable consideration or not, it is revocable at law by the grantor's death: (*Watson v. King*, 4 Camp. 272.) See, now for exceptions, 22 & 23 Vict. c. 35, s. 26. In equity, however, even prior to this enactment, it appears that acts done *bonâ fide* and without notice of the grantor's death were considered valid: (*Bailey v. Collett*, 18 Beav. 179.)

(a) For the formalities which should attend the execution of powers of attorneys, see note to Precedent 216, *post*.

the said D.B., at present residing in _____, do hereby nominate, constitute, and appoint, and in my place and stead put and depute W.X. and Y.Z., both of &c., to be my true and lawful attorneys and acting jointly and severally for me and in my name to appear before the Right Honourable Sir James Hannen, Knight, the President of the Probate Division of the High Court of Justice in England, or any principal or district registrar of the said court or other competent judge in this behalf, and to pray for and procure letters of administration of all and singular the personal estate and effects of the said D.B., my late father, deceased, to be granted or committed to them, or either of them, for my use and benefit. AND upon obtaining such letters of administration, or at any time afterwards, for me and in my name, to pray for and procure letters of administration of all and singular the personal estate and effects of the said C.B., deceased, also for my use and benefit, and generally to do, perform, and execute all matters and things in and about the premises as fully and effectually to all intents whatsoever, as I, the said A.B., might or could do if personally present. AND also to substitute and appoint any person or persons to act under or in the place of the said W.X. and Y.Z., in all or any of the matters aforesaid, and every such substitution at pleasure to revoke; I, the said A.B., hereby agreeing to ratify and confirm whatsoever the said W.X. and Y.Z., or either of them, their, or either of their, substitute or substitutes shall lawfully do or cause to be done in or about the premises by virtue hereof. IN WITNESS, &c.

142. *Power of Attorney to dissolve a Partnership.* **Present****142.**

KNOW ALL MEN BY THESE PRESENTS that I, A.B., of &c., being about to leave England, and to be absent therefrom for some time, for divers good causes and considerations me hereunto moving, do, by these presents, make, constitute, and appoint Y.Z., of &c., my true and lawful attorney for me, and in my name, and on my behalf to consent and agree to a dissolution of the partnership at present subsisting between myself and C.D., of &c., as at , under the firm of "A. B. and Co.," and for me, and in my name and on my behalf, to become party to, and to sign, seal, deliver, and execute all such agreement or agreements, deed or deeds of dissolution, instrument or instruments in writing, as shall be considered necessary or deemed expedient by the said Y.Z., for dissolving the said partnership, and for me, and in my name, and on my behalf, and at such time or times as my said attorney shall think proper, to sign all and every notice or notices which may be necessary for publishing and making generally known the dissolution of the said partnership, and to cause or concur with my said other partner in causing such notice or notices to be inserted in the *London Gazette*, and such other gazettes or newspapers as the said attorney shall think fit, whether published in this country or abroad. AND if the said attorney shall think fit for me and in my name to sign and give all fit and proper notices of such dissolution as aforesaid to all and every person and persons with whom the said firm has done, or has been in the habit of doing, any business, or to any other person or persons whomsoever. AND I DO HEREBY AGREE to ratify and confirm all and whatsoever my said attorney shall lawfully do or cause to be done in the premises by virtue of these presents. IN WITNESS, &c.

Power of
attorney to
dissolve a
partnership.

Precedent 143. *Power of Attorney from Partners to manage their Business Abroad.*

Power of
attorney from
partners to
manage their
business
abroad.

KNOW ALL MEN BY THESE PRESENTS that we, A.B. and C.D., both of &c., carrying on business there in co-partnership as under the style or firm of "A. B. and Co.," for divers good causes and considerations us hereunto moving, do by these presents make, constitute, and appoint Y.Z., of &c., our true and lawful attorney and agent for us, and in our names, or in the name of our said firm, and as our act or that of our said firm, to carry on, conduct, and manage all and every our business and concerns according to the usual and regular course thereof as heretofore carried on at, &c., and for that purpose for us, and in our names, or in the name of our said firm or otherwise as occasion shall require, to draw, subscribe, and endorse any bill or bills of exchange or promissory note or notes in satisfaction of or on account of any debt or claim due or payable from or to us or to our said firm. AND also for us and in our names, or on our behalf, or in the name and on the behalf of our said firm, to charter or hire any vessel or vessels in or from, &c., to any port or ports in Great Britain or Ireland, or to parts or places beyond the seas or otherwise as occasion shall require, and for that purpose to enter into, make, sign, and execute all necessary agreements and charter parties with the owner or owners of such vessels, and upon such terms and conditions as our said attorney shall think advisable. AND also to examine, adjust, and settle all accounts and reckonings which shall be subsisting unsettled between us or our said firm, and any person or persons whomsoever in aforesaid, and to pay or receive (as the case may be) the balance, if any, which shall appear to be due on the settlement of such accounts and reckonings. AND also for us and in our names, or in the name of our said firm, or otherwise as occasion shall require, to ask,

demand, and receive of and from all and every persons or person in aforesaid, all and every sum and sums of money, goods, securities and effects due to us or to our said firm in their or his custody or possession, or for which such person or persons is, are, or shall be liable or accountable to us or to our said firm in anywise, and upon receipt thereof to give and execute effectual releases and discharges for the same; and also to institute such actions, suits, or proceedings in any court or courts of law or equity as shall be deemed necessary or advisable for enforcing the payment or recovery thereof, and to appear to and defend any actions, suits, or other proceedings commenced or to be commenced against us or our said firm, and either to proceed to judgment and execution, or to become non-suit, or to suffer judgment to go by default in any such actions, suits, or other proceedings as aforesaid, or to compromise the same, as shall be most expedient; and to submit to arbitration any disputes or questions which may arise between us or our said firm and any other person or persons, and for that purpose to execute any bonds or agreements of submission, and to perform the award to be made in pursuance thereof, and to take security for any debt or debts due to us or to our said firm, or to receive payment or satisfaction for the same in real or personal property, and for that purpose to execute all necessary conveyances and assurances thereof, and afterwards, if deemed expedient, to sell and convert into money such property, and to sign, seal, and deliver all necessary conveyances, assignments, and assurances to the purchasers of the same or any part thereof; and to give and execute valid receipts for the purchase money, and also to compound for any debt or debts due to us or to our said firm, if deemed expedient. AND for all or any of the purposes aforesaid one or more attorney or attorneys, substitute or substitutes, with the whole or less power to appoint, and from

time to time, at pleasure, to revoke every or any such appointment, and other or others to appoint, and generally to act, in the entire management and conduct of all matters relating to or connected with our business or the business of our said firm, and to use and pursue all such ways and means, and make, do, and execute all such acts, deeds, matters, and things, as may be requisite or expedient for that purpose, in as full and absolute a manner as we ourselves could do, perform, and execute the same in our own proper persons. We, the said A.B. and C.D., hereby ratifying, allowing, and confirming, and promising, and undertaking to ratify, allow, and confirm all and whatsoever our said attorney or any such substitute or substitutes shall lawfully do or cause to be done in the premises by virtue of these presents. We, the said A.B. and C.D., hereby authorising our said attorney to appear before all and every or any the court or courts, magistrate or magistrates, officer or officers, constituted and appointed for the registration of deeds and documents in aforesaid, and to cause these presents and all other instruments and writings connected with the execution and fulfilment hereof to be duly registered and recorded according to law. IN WITNESS, &c.

Precedent
144.

144. *Power of Attorney from a Mortgagee of Hereditaments Abroad to enter and sell.*

Power of attorney from a mortgagee of hereditaments abroad to enter and sell.

KNOW ALL MEN BY THESE PRESENTS that I, A.B., of &c., hereby constitute and appoint C.D., of &c., my true and lawful attorney and agent for me, and in my name, and on my behalf, or otherwise, for my use, as and when he shall think proper, to enter upon and take possession of ALL and singular the house with the garden and appurtenances thereto in . AND also to enter upon and take possession of ALL and singular, or any part or

parts, of the lands, hereditaments, and premises comprised in and assured to me by way of mortgage by a certain indenture, dated, &c., and made between Y.Z. of &c. [*mortgagor*], of the one part, and myself of the other part, and for that purpose or any other purpose connected with the execution and fulfilment thereof, to commence and prosecute or defend such actions, suits, or other proceedings as my said attorney shall deem expedient. AND for me and in my name to exercise, perform, and execute all powers of sale and other powers or authorities over or in relation to the said house, lands, and premises, and to execute all deeds and documents necessary for the purposes aforesaid as fully and effectually as I myself could or might lawfully exercise or execute the same if personally present. AND also for me and in my name or otherwise for my use, to ask, demand, and receive of and from all and every person and persons in or elsewhere in , liable or accountable in that behalf, all and every sum and sums of money, goods, securities, and effects due to me, and in his or their custody or possession, or for which such person or persons is, are, or shall be liable or accountable to me in anywise, and upon the receipt thereof to give and execute effectual releases and discharges for the same. AND I empower my said attorney on payment to him by the said Y.Z., his heirs, executors, administrators, or assigns, of the moneys secured to me by the aforesaid mortgage to reconvey or re-assign the land and premises comprised in the said security to the person or persons entitled thereto. AND in default of payment to sell the same lands and premises and every or any part thereof, and convey and assure the same or such part or parts as shall be sold to the purchaser or purchasers thereof, and to give effectual receipts, releases, and discharges for the purchase moneys. AND for all or any of the purposes aforesaid one or more, &c. [*Power to appoint substitutes, and*

time to time, at pleasure, to revoke every or any such appointment, and other or others to appoint, and generally to act, in the entire management and conduct of all matters relating to or connected with our business or the business of our said firm, and to use and pursue all such ways and means, and make, do, and execute all such acts, deeds, matters, and things, as may be requisite or expedient for that purpose, in as full and absolute a manner as we ourselves could do, perform, and execute the same in our own proper persons. We, the said A.B. and C.D., hereby ratifying, allowing, and confirming, and promising, and undertaking to ratify, allow, and confirm all and whatsoever our said attorney or any such substitute or substitutes shall lawfully do or cause to be done in the premises by virtue of these presents. We, the said A.B. and C.D., hereby authorising our said attorney to appear before all and every or any the court or courts, magistrate or magistrates, officer or officers, constituted and appointed for the registration of deeds and documents in aforesaid, and to cause these presents and all other instruments and writings connected with the execution and fulfilment hereof to be duly registered and recorded according to law. In WITNESS, &c.

**Precedent
144.**

144. *Power of Attorney from a Mortgagee of Hereditaments Abroad to enter and sell.*

Power of
attorney from
a mortgagee of
hereditaments
abroad to
enter and sell.

KNOW ALL MEN BY THESE PRESENTS that I, A.B., of &c., hereby constitute and appoint C.D., of &c., my true and lawful attorney and agent for me, and in my name, and on my behalf, or otherwise, for my use, as and when he shall think proper, to enter upon and take possession of ALL and singular the house with the garden and appurtenances thereto in . AND also to enter upon and take possession of ALL and singular, or any part or

parts, of the lands, hereditaments, and premises comprised in and assured to me by way of mortgage by a certain indenture, dated, &c., and made between Y.Z. of &c. [*mortgagor*], of the one part, and myself of the other part, and for that purpose or any other purpose connected with the execution and fulfilment thereof, to commence and prosecute or defend such actions, suits, or other proceedings as my said attorney shall deem expedient. AND for me and in my name to exercise, perform, and execute all powers of sale and other powers or authorities over or in relation to the said house, lands, and premises, and to execute all deeds and documents necessary for the purposes aforesaid as fully and effectually as I myself could or might lawfully exercise or execute the same if personally present. AND also for me and in my name or otherwise for my use, to ask, demand, and receive of and from all and every person and persons in or elsewhere in , liable or accountable in that behalf, all and every sum and sums of money, goods, securities, and effects due to me, and in his or their custody or possession, or for which such person or persons is, are, or shall be liable or accountable to me in anywise, and upon the receipt thereof to give and execute effectual releases and discharges for the same. AND I empower my said attorney on payment to him by the said Y.Z., his heirs, executors, administrators, or assigns, of the moneys secured to me by the aforesaid mortgage to reconvey or re-assign the land and premises comprised in the said security to the person or persons entitled thereto. AND in default of payment to sell the same lands and premises and every or any part thereof, and convey and assure the same or such part or parts as shall be sold to the purchaser or purchasers thereof, and to give effectual receipts, releases, and discharges for the purchase moneys. AND for all or any of the purposes aforesaid one or more, &c. [*Power to appoint substitutes, and*

to revoke appointments, and authority to register documents in local courts as in Precedent 143, ante, p. 132, et seq.]

IN WITNESS, &c.

Precedent 145. *Power of Attorney from Trustees under a Deed of Assignment to collect Portions of the Trust Estate.*

Power of attorney from trustees under a deed of assignment to collect portions of the trust estate.

TO ALL TO WHOM THESE PRESENTS shall come, A.B. and C.D., of &c. [*trustees*], send greeting. WHEREAS, &c. [*recite deed of assignment generally and particularly the clause therein giving power to trustees to delegate*]. Now THESE PRESENTS WITNESS that for better recovering and receiving the goods and moneys hereinafter referred to, and in pursuance of the above-mentioned power conferred upon and vested in the said trustees, and by virtue of all other powers us enabling in that behalf, WE, the said A.B. and C.D., do jointly and each of us, doth separately, by these presents hereby constitute and appoint Y.Z. a partner in the firm of Y.Z. and Co., of &c., the attorney of them the said debtors and each of them; and of us the said A.B. and C.D. and of each of us for them the said debtors and each of them, and in their or his names or name, and for us the said trustees, and each of us to claim, demand, sue for, recover, receive, and take possession of all goods, chattels, and effects, accounts, books, moneys, negotiable or other instruments or securities, being parts of the said joint and separate estates of the said debtors or either of them respectively which are now due, owing, belonging, or appertaining to the said debtors, or to either of them, or to us as aforesaid, or to the said joint and separate estates respectively from M.N., of &c. [*debtor*], and from the persons comprising the partnership firm of "O.P. and Co." of &c. [*other debtors*], and from any other firm or firms, person or persons in , liable or accountable in that behalf,

or which are in the possession of the said M.N. and "O.P. and Co.," or of any person or persons in _____, and to give receipts and acquittances for the same, and to endorse and transfer all instruments relating to or respecting the ownership of any part of the said property, and to appoint substitutes for all or any of the purposes aforesaid, and to do all or any of the said acts. We, the said A.B. and C.D., and each of us respectively, hereby undertaking to ratify and confirm all acts and things to be done under the authority herein contained. IN WITNESS, &c.(a) _____

146. *Power of Attorney from Owner as to the Sale and Management of a Merchant Vessel.* **Precedent 146.**

KNOW ALL MEN BY THESE PRESENTS that I, A.B., of &c., do hereby nominate, constitute, and appoint C.D., of &c., to be my true and lawful attorney for me, and in my name, or in his own name or otherwise, to remove the present master Y.Z., of the ship [or barque] or vessel called the "_____", or any seaman or officer on board the said vessel; and from time to time to appoint any other master, seamen, or officers, to the same vessel upon such terms as to my said attorney shall seem fit. AND also to demand and receive of and from the present or any future master of the said vessel, or from the officers thereof, or any other person or persons whom it may concern, the certificate of registry, log-

Power of attorney from owner as to the sale and management of a merchant vessel.

(a) It should clearly appear in this and like cases, that the persons seeking to give such a power are competent to do so, and expressly authorised to delegate wholly or partially their trust by the instrument under which they are acting, otherwise such a substitution would be in contravention of the maxim, *delegatus non potest delegare*, and void. Where, however, authority is given by A. to B. to execute a power himself, or give it to another; by so giving it he does not delegate it. (And see *Doe dem. Duke of Devonshire v. Lord G. Cavendish*, 4 T. R. 774, n.)

books, and other papers and documents of and relating to the said vessel; and all papers, documents, goods, chattels, and effects which now are or hereafter may become due, owing, payable, or deliverable by or from the master, officers or crew of the said vessel or any of them. AND upon receiving the same to give proper receipts therefor. AND to receive from any person or persons liable to pay the same, all freight and earnings of the said vessel, and to give proper discharges for the same, and for obtaining possession of the said vessel, or, on non-payment or non-delivery of any of the premises, to commence and prosecute all such suits, actions, or legal proceedings as he or they may think expedient. AND also to appear to and defend any suits or actions against the said vessel or her owner, and also to receive from any person or persons to whom the same vessel may be sold, the purchase moneys for the same, and to give proper receipts for such moneys, and generally to do all such other acts, deeds, matters and things in and about the premises as amply as I could do if personally present, I hereby binding myself to ratify and confirm whatsoever shall be lawfully done by virtue hereof. IN WITNESS, &c.

Precedent 147. *Power of Attorney from cestui que trust to act in respect of his Share under Will.*

Power of attorney from cestui que trust to act in respect of his share under will.

TO ALL TO WHOM THESE PRESENTS shall come, I, A.B., of &c., send greeting. WHEREAS I am entitled, under the will of Y.Z., late of &c., to a certain share and interest of and in the estate and effects of the said Y.Z., who died on or about, &c. AND WHEREAS, being about to leave England and to reside abroad for some time, I am desirous of appointing C.D. and E.F., of &c., my attorneys, to act for me during my absence in respect of the said share and interest in

manner hereinafter appearing. Now KNOW YE, that for divers good causes and considerations me hereunto moving, and for effectuating the said desire and purpose aforesaid, I do hereby nominate, constitute, and appoint the said C.D. and E.F., and each of them, my true and lawful attorneys and attorney from time to time, and at all times hereafter until the authority herein given shall be expressly revoked by writing under my hand endorsed on these presents for me, and in my name, place, and stead, to ask, demand, receive, and take possession of all moneys or property whatsoever, which now are, or at any time or times hereafter shall or may be, due, owing, payable, belonging, or coming to me from the trustees and executors, or other the representatives or representative for the time being of the said Y.Z. deceased, or from any other person or persons whomsoever, for or on account, or in respect of, my share and interest of and in the estate and effects of the said Y.Z. deceased, and whether testamentary, distributive, specific, residuary, or otherwise. AND on receiving or obtaining payment, possession, or delivery thereof, or of any part thereof, to give effectual receipts, acquittances, releases, and discharges for the same. AND also to commence, institute, and prosecute any actions, or other proceedings, either at law or in equity, against the said trustees and executors, representatives or representative, or any other person or persons, on account or in respect of the premises. AND to defend any actions, or other proceedings which may be commenced against me in respect of the premises, or to compromise the same, and to call for, and demand the production of all proper accounts, statements, and inventories of the estate and effects of the said Y.Z., deceased, from the said trustees and executors, or other person or persons, aforesaid, and, if necessary, to institute proceedings for compelling the production or delivery thereof. AND to state,

settle, adjust, and agree to all accounts and reckonings which are now, or which shall at any time or times hereafter be subsisting or unsettled between me and the said trustees and executors, or other person or persons aforesaid. AND also for me, and in my name, place, and stead, and as my act and deed, to sign, seal, make, and execute any ordinary or special release in the law to the said trustees and executors, representatives, or representative, or other person or persons aforesaid, for or in respect of the trust and executorship accounts relating to the estate of the said Y.Z. deceased, or for or in respect of the acts of the said trustees and executors, or other person or persons aforesaid in relation thereto, and generally to act in the premises as fully and effectually to all intents and purposes as I the said A.B. could do if personally present and did the same, I hereby giving and granting to my said attorneys and to each of them my full and absolute power and authority in the premises, hereby ratifying, allowing, and confirming, and undertaking to ratify, allow, and confirm all and whatsoever my said attorneys or either of them shall lawfully do or cause to be done in or about the premises by virtue of these presents. AND I hereby declare that the power and authority hereby given shall be and continue valid and effectual for all the purposes aforesaid wheresoever I shall happen to be, and notwithstanding that I may from time to time hereafter return to and depart from England before the said purposes and objects have been completely fulfilled. IN WITNESS, &c.

**Precedent
148.**

148. *Power of Attorney from Partners to recover a Debt due from a foreign Firm.*

Power of
attorney from
partners to
recover a debt
due from a
foreign firm.

KNOW ALL MEN BY THESE PRESENTS that we, A.B. and C.D., of &c., trading under the style or firm of A.B. and Co., do, for divers good causes and considerations us

hereunto moving, hereby, make, constitute, and appoint Y.Z., of the firm of Y.Z. and Co., of &c., our true and lawful attorney for us and in our names, or in the name of our said attorney as occasion may require, but for our use and benefit, to ask, demand, sue for, arrest, attach, recover, and receive of and from Messrs. M.N. & Co., of &c., and the person or persons respectively constituting or composing the said firm, all and every debt and debts, sum and sums of money due and owing to us from or by the said Messrs. M.N. and Co., or the person or persons constituting or composing the said firm on any account whatsoever. AND also all and every goods, merchandise, chattels, estate, effects, and property whatsoever belonging to us in the hands, custody, or possession of the said firm of M.N. and Co., or any of the persons constituting or composing the said firm, or any of the principals, agents, clerks, or servants. AND upon receipt or possession of the said debts, money, goods, and effects, or of any dividend, composition, or satisfaction for the same, or any part thereof, for us and in our names, or in the name of our said attorney, to give, sign, and execute good and sufficient receipts, releases, acquittances, and discharges for the same. AND on refusal to pay or deliver, or on non-payment or non-delivery of what shall appear to be justly due, payable, or belonging to us from or by the said Messrs. M.N. and Co., or the person or persons constituting or composing the said firm, or any of such person or persons respectively, for us, and in our names, or in the name of our said attorney, to take, use, institute, and prosecute with effect all proper, needful, and necessary, legal, or equitable ways and means for recovering and compelling payment and delivery thereof, and also to resist and defend any actions, suits, or proceedings that may be commenced, instituted, or prosecuted against us, or against our said attorney, or any of our said property, moneys, estates, or effects. AND also

to compound, submit to arbitration, or otherwise agree to all or any such accounts, reckonings, and transactions. AND for effecting all or any of such objects, to enter into and make and execute any deeds of composition, bonds of arbitration, or other instruments for referring such accounts, reckonings, and transactions, to the decision of any person or persons to be chosen for the purpose. AND for all or any of the purposes aforesaid, an attorney or attorneys under the said Y.Z., from time to time to appoint, and again at pleasure to revoke such appointment, and to substitute others, as to our said attorney shall seem meet. AND generally to do, transact, and manage for us in the premises as fully and effectually to all intents and purposes whatsoever, as we ourselves or either of us might do if personally present. WE, the said A.B. and C.D., hereby undertaking to ratify and confirm all lawful acts and matters to be done under the authority herein contained.(a) IN WITNESS, &c.

(a) Powers of attorney, such as the preceding, are liable to a stamp duty of 10s., but if for use abroad the stamp (if any) will be regulated by the revenue laws of the country wherein the power is to be exercised, on the general principle that no country takes cognisance of the revenue laws of a foreign state. And see *James v. Catherwood* (3 D. & R. 190). In practice we believe powers are frequently sent out purposely unstamped. See, however, *Bristow v. Secqueville* (19 L. J. Ex. 289), as to possible risk resulting from such a course.

Receipts.

149. *Receipt for Consideration Money* (endorsed on deed or engrossed at the foot thereof if made-up bookwise.) (a) **Precedent 149.**

RECEIVED the [day and year first within [or above] written of and from the within [or above] named C.D., [purchaser or mortgagee] the] sum of pounds being the consideration money within [or before] expressed to be paid [by him] to me [or (if so) to the Company Limited]. *If a Bill of Sale add:* And I further acknowledge that I fully understand the contents and effect of this security.

Receipt for consideration money.

WITNESS,

Y.Z.

A.B. [vendor or mortgagor.]

150. *Receipt for the Purchase Money of Stock-in-trade and Effects.* **Precedent 150.**

RECEIVED the day of , 18 , from Mr. A.B. [purchaser] the sum of £ the full purchase money as agreed for the several articles of household furniture, stock-in-trade, and other effects particularly specified in the inventory at foot, this day delivered by me to the said A.B., all which premises are my own property and are unincumbered. AND I UNDERTAKE to

Receipt for the purchase money of stock-in-trade and effects.

(a) Those words within heavy brackets may be omitted when conciseness is desired.

execute any further assurance of the premises the said A.B. may require at his expense and request.(a)

C.D. [*vendor*].

THE INVENTORY referred to.

Precedent 151. 151. *Receipt for a Composition on a Debt and Undertaking to execute Release.*

Receipt for a composition on a debt and undertaking to execute release.

RECEIVED the day of , 18 , from Mr. A.B. [*debtor*], by payment of Mr. Y.Z., his solicitor, the sum of £ , being a composition of in the pound on the amount of my debt of £ against the said A.B., and in full discharge of the same.(b) AND I UNDERTAKE, upon request, to execute to the said A.B., at his expense, a complete release and discharge for my said debt.

C.D. [*creditor*].

Precedent 152. 152. *Receipt for a Composition paid by a Trustee and Undertaking by Creditors to execute Release.*

Receipt for a composition paid by a trustee and undertaking to execute release.

WE, THE UNDERSIGNED, creditors of A.B., of &c. [*debtor*], do hereby severally acknowledge to have received from Mr. Y.Z., of &c., the trustee acting under a deed of composition, dated, &c., the several sums of money placed opposite our respective names in the second column hereunder written, being a composition of in the pound upon the amount of our respective debts against

(a) A mere acknowledgment of payment, however formal, if not under seal, is not conclusive; and this, even if the parties agree between themselves that it shall be so: (*Foster v. Dawber*, 20 L. J. Ex. 385). So that where an estoppel is desired a deed should be used.

(b) See *Norman v. Thompson* (4 Exch. 755); *Tatlock v. Smith* (6 Bing. 339).

the estate of the said A.B. mentioned opposite our names in the first column hereunder written. AND WE SEVERALLY UNDERTAKE and agree to save harmless the said Y.Z. from all claims and demands for distributing the estate and paying us the said sums respectively not exceeding the sums so paid by him to us respectively, and we hereby discharge the said Y.Z. from all claims in respect of his trust under the said deed of composition.

Creditors' signatures.	First column.			Second column.		
	Amount of debt.			Amount of composition.		
	£	s.	d.	£	s.	d.

153. Receipt for a Dividend paid by Trustees under a Deed of Assignment to Creditors. **Precedent 153.**

WE, THE UNDERSIGNED, creditors of A.B., of &c. [*debtor*], do hereby severally acknowledge to have received from Messrs. W.X. and Y.Z., the trustees acting, under a duly registered deed of assignment, dated, &c. for the benefit of creditors of the said A.B., the several sums mentioned in the second column hereunder written, being a first and final dividend [*or, as the case may be*] of in the pound on the amount of our respective debts against the estate of the said A.B. mentioned and set opposite our respective names in the first column hereunder written. AND we hereby discharge the said W.X. and Y.Z. from all claims, accounts, and demands in respect of their trust under the same deed.

Receipt for a dividend paid by trustees under a deed of assignment to creditors.

Creditors' signatures.	First column.			Second column.		
	Amount of debt.			Amount of dividend.		
	£	s.	d.	£	s.	d.

**Precedent
154.**

Receipt by a
mortgagee for
deeds.

154. Receipt by a Mortgagee for Deeds.

I HEREBY ACKNOWLEDGE that I have received from Mr. A.B., of &c. [*mortgagor*], the several deeds and writings mentioned at the foot hereof, and I undertake to keep the same whole and uncanceled (unless prevented by fire or other inevitable accident), and to return the same to him, his heirs [*or executors, administrators*], or assigns, on payment of the principal money and interest owing to me, should no sale or transfer of the property take place in the meantime.(a)

DATED the day of , 18 .

C.D. [*mortgagee*].

[*Here insert particulars of deeds.*]

**Precedent
155.**

Receipt by a
legatee for his
share of resi-
duary estate.

155. Receipt by a Legatee for his Share of Residuary Estate.

RECEIVED the day of , 18 , from the executors of A.B., late of &c. [*testator*], deceased, the sum of £ , being a share of the residue of his estate, to which I am entitled as one of the of the said A.B., and I hereby discharge the said executors from all claims and demands so far as I

(a) See also Precedent 1, *ante*, p. 1.

am personally concerned in respect of their trust and executorship, and I undertake upon request to execute to them a full and complete release and discharge.(a)

C.D. [*legatee*].

156. *Receipt for Moneys secured on Mortgage and Undertaking to transfer.* **Precedent 156.**

RECEIVED from Messrs. A.B. and C.D., of &c. [*intended transferees*], by payment of Mr. Y.Z., their solicitor, £ , being the full principal money (all interest having been paid) due by E.F., on mortgage, dated, &c., of property in Street, to our client, Mr. G.H. [*mortgagee*], which sum we are duly authorised to receive on his behalf, and we deliver up the deeds to the above-named Mr. Y.Z., and undertake that the said G.H. shall, at the request and expense of the said mortgagor, transfer the said debt and premises to the said A.B. and C.D.

DATED the day of 18 .
M. and N. [*mortgagee's solicitors*].

Recitals.(b)

157. *Recital of a Lease.*

Precedent 157.

WHEREAS by an indenture of lease dated on or about, &c., and made between A.B. of the one part, and the

Recital of a lease.

(a) It is to be noted that although a release is customary the executor cannot *require* more than the simple receipt.

(b) As to the object, shape, and advantage of recitals generally, see Barry's Conveyancing, pp. 185-7, where the subject is ably discussed; also 1 Davidson's Conv. pp. 41, *et seq.*, 49, 50; pp. 557, 558.

said C.D. of the other part, the said A.B. did demise and lease unto the said C.D., his executors, administrators and assigns, All that, &c. [*parcels*]. To hold the same, with the appurtenances, unto the said C.D., his executors, administrators, and assigns, from the day of 18 , for the term of years thence next ensuing, subject to the payment of the yearly rent of £ , by the instalments therein mentioned, and to the observance and performance of the covenants and conditions therein contained, and on the part of the lessee, his executors, administrators, and assigns to be observed and performed.

**Precedent
158.**

Recital of a
mortgage of a
lease.

158. Recital of a Mortgage of a Lease.

WHEREAS by an indenture dated, &c., and made between A.B. of the one part and C.D. of the other part, in consideration of £ paid to the said A.B. by the said C.D., the piece of land described in and demised by the hereinbefore-recited indenture of lease, together with the buildings erected thereon, was assigned unto the said C.D., his executors, administrators, and assigns for the residue of the said term of years, subject to redemption on payment by the said A.B., his executors, administrators, or assigns, to the said C.D., his executors, administrators, or assigns, of the said sum of £ , with interest for the same after the rate at the time and in manner therein mentioned.

**Precedent
159.**

Recital of a
second
mortgage of a
lease.

159. Recital of a Second Mortgage of a Lease.

WHEREAS by an indenture dated, &c., and made between A.B. of the one part, and C.D. of the other part, the said piece or parcel of land, buildings, and premises were assigned unto the said C.D., his executors, ad-

ministrators, and assigns. To hold the same unto the said C.D., his executors, administrators, and assigns, for the then residue of the said term of years, subject to the said hereinbefore-recited indenture of, &c. [*first mortgage*], and to the payment of the said principal sum of £ and interest thereby secured, and subject also to redemption on payment by the said A.B., his executors, administrators, or assigns, to the said C.D., his executors, administrators, or assigns, of the said sum of £ and interest after the rate at the time and in manner therein mentioned.

160. *Recital of a Transfer of a Second Mortgage* **Precedent**
of a Lease. **160.**

WHEREAS by an indenture, dated, &c., and made between A.B. of the first part, C.D. of the second part, and E.F. of the third part, the said A.B., with the concurrence of the said C.D., did assign unto the said E.F., his executors, administrators, and assigns, the said principal sum of £ owing to the said A.B. on the security of the said indenture of, &c., and the interest then due for the same, and the benefit of all securities in respect thereof. To hold the same under the said E.F., his executors, administrators, and assigns, for his and their own benefit. And by the said indenture now in recital, it was further witnessed that the said A.B., at the request of the said C.D., did assign, and the said C.D. did assign and confirm unto the said E.F., his executors, administrators, and assigns, All the said piece of land, buildings, and premises comprised in the said hereinbefore-recited indenture of, &c. To hold the same unto the said E.F., his executors, administrators, and assigns for the residue of the said term of years, created by the said hereinbefore-recited indenture of

*Recital of a
transfer of a
second mort-
gage of a lease.*

lease, but subject to the said indenture of, &c. [*first mortgage*], and to the payment of the principal moneys and interest intended to be thereby secured upon trust, to sell and receive the purchase moneys, and apply the same (after satisfying the costs and expenses of the now reciting indenture and the costs of sale) in payment of the sum therein mentioned and interest thereon, and also such other moneys (if any) as might be advanced by the said E.F. to or on account of or might become due to him from or by the said C.D., his executors or administrators, with interest, and to pay any surplus of the said moneys unto the said C.D., his executors, administrators, or assigns.

Precedent 161. *Recital of no Sale having taken Place under a Mortgage.*

Recital of no sale having taken place under a mortgage. WHEREAS no sale has taken place under or by virtue of the trust for sale contained in the lastly recited indenture.

Precedent 162. *Recital of no Reconveyance having been Executed.*

Recital of no reconveyance having been executed. WHEREAS all the principal moneys and interest intended to be secured by the hereinbefore-recited indenture have been duly paid to the said A.B., but no re-conveyance of the said premises comprised in the same indenture has yet been executed.

Precedent 163. *Recital of a Contract and Sub-contract for Sale.*

Recital of a contract and sub-contract for sale. WHEREAS the said A.B. has agreed with the said C.D. for the sale to him of the said piece of land, buildings, and premises for the residue now unexpired of the said

term of years, with the appurtenances free from incumbrances at the price of £ , and the said C.D., without having taken any assignment to himself, has agreed, with the concurrence of the said A.B., to assign all his right and interest in the premises unto the said E.F.

164. *Recital of Amounts due on Mortgages and Agreement to pay off same out of Purchase Money.* **Precedent 164.**

WHEREAS the said respective sums of £ , and £ are now due and owing to the said A.B. and C.D. respectively, but all interest for the same has been paid up to the date of these presents, and it has been agreed that such sums respectively shall be paid off out of the said purchase-money or sum of £ , and that the said A.B. and C.D. shall join in these presents in manner hereinafter appearing.

Recital of amounts due on mortgages and agreement to pay off same out of purchase money.

165. *Recital of a Contract with a Party deceased.* **Precedent 165.**

WHEREAS the said A.B. some time since agreed with C.D., now deceased, for the absolute sale to him of the said hereditaments subject as hereinafter mentioned for the sum of £ , which sum was paid by the said C.D. in his lifetime to the said A.B. as he doth hereby admit, but no conveyance of the said hereditaments was made to the said C.D.

Recital of a contract with a party deceased.

166. *Recital of a Will and Devise of Residue.* **Precedent 166.**

WHEREAS the said A.B. [being at the time of making his will hereinafter recited, and thenceforward to the time of his death, seised of or well entitled to the

Recital of a will and devise of residue

hold and hold hereditaments hereinafter described (a)] duly made and executed his last will [in manner then by law required for passing freehold estates by devise (a)], dated, &c., whereby, after making certain specific devises and bequests as therein contained, he gave, devised, and bequeathed All the rest, residue, and remainder of his estate and effects whatsoever and wheresoever, real and personal, unto the said C.D., his heirs, executors, administrators, and assigns upon certain trusts thereinafter mentioned concerning the same, and appointed the said C.D. executor of the said will.

Precedent 167. *Recital of Codicils not affecting a General Devise.*

Recital of
codicils not
affecting a
general devise.

WHEREAS the said testator made two codicils to his said will, dated respectively, &c., but neither of such codicils affected the general devise of the residuary real and personal estate made by the said will.

Precedent 168. *Recital of a Death and Probate of a Will and Codicils.*

Recital of a
death and
probate of a
will and
codicils.

WHEREAS the said testator died on the day of 18 , without having altered or revoked his said will, except so far as the same was altered or revoked by the said codicils thereto, and without having altered or revoked the said codicils, or either of them, and the said will and codicils were duly proved in the Registry of the Probate Division of the High Court of Justice on the day of 18 , by the said C.D.

(a) Unnecessary in the recital of a will of realty made on or since January 1, 1838.

169. *Recital of a Death and Probate of a Will and Codicil, the latter whereof did not affect the Will as recited.* **Precedent 169.**

AND WHEREAS the said testator died in the month of _____, 18____, without having revoked or altered his said will, so far as the same is hereinbefore recited, and the said will, with a codicil thereto, was proved by the said C.D. on the _____ day of _____, 18____, in the Registry of the Probate Division of the High Court of Justice.

Recital of a death and probate of a will and codicil, the latter whereof did not affect the will as recited.

170. *Recital of a Request to Convey.* **Precedent 170.**

AND WHEREAS the said A.B. has requested the said C.D. to convey and assure to him the fee simple and inheritance of the hereditaments so contracted to be sold to the said E.F., deceased, which the said C.D. has agreed to do subject as hereinafter mentioned.

Recital of a request to convey.

171. *Recital of a Judgment obtained against a Mortgagor.* **Precedent 171.**

WHEREAS the said A.B. is indebted to the said C.D. in the sum of £_____, for which sum the said A.B. has obtained a judgment against the said C.D. in the Queen's Bench Division of the High Court of Justice, and the said C.D. has applied to the said A.B. to forbear issuing an execution thereon which he has agreed to do upon having the payment of the said debt with interest secured in manner hereinafter appearing.

Recital of a judgment obtained against a mortgagor.

172. *Recital of an Action having been commenced against a Mortgagor.* **Precedent 172.**

WHEREAS the said A.B. is indebted to the said C.D. in the sum of £_____, and the said C.D. having applied

Recital of an action having been

commenced
against a
mortgagor.

to him for payment of the same sum, but without effect, the said C.D., on the day of , 18 , commenced an action against the said A.B. in the Queen's Bench Division of the High Court of Justice, which action the said C.D. has consented to stay, on the said A.B. giving security for the payment of the said sum of £ and interest for the same in manner herein-
after appearing.

**Precedent
173.**

Recital of
liability on
promissory
notes.

173. *Recital of Liability on Promissory Notes.*

WHEREAS the said A.B. has become liable to Y.Z., on a promissory note for £ and interest payable on demand, at the request of and as surety for and jointly with the said C.D., and is also liable on another promissory note to the said Y.Z. for the sum of £ and interest payable and made in like manner, and the said A.B. having required security for the payment of any moneys which he may at any time be required or called upon to pay to the said Y.Z., or to any other person or persons for or on account of the said C.D., in respect of the said promissory notes respectively or otherwise, the said C.D. has agreed to give such security in manner hereinafter appearing.

**Precedent
174.**

Recital of a
policy of life
assurance.

174. *Recital of a Policy of Life Assurance.*

WHEREAS by a policy of assurance, dated, &c., the Assurance Company assured to the said A.B. the sum of £ , to be paid to his executors, administrators, or assigns, within calendar months next after satisfactory proof of the death of the said A.B., at or under the annual premium of £ .

175. *Recital of a Mortgage of a Policy of Life Assurance.* **Precedent 175.**

WHEREAS by an indenture, dated, &c., and made between the said A.B., on the one part, and C.D., of the other part, in consideration of the sum of £ then due by the said A.B. to the said C.D., the said A.B. did assign and transfer unto the said C.D., his executors, administrators, and assigns, the said policy and all sums of money which should or might at any time become payable under or by virtue thereof, subject to redemption on payment by the said A.B., his executors, administrators, or assigns, to the said C.D., his executors, administrators, or assigns, of the said sum of £ with interest after the rate of £ per cent. per annum, without deduction.

Recital of a mortgage of a policy of life assurance.

176. *Recital of a Contract for Purchase of a Policy of Life Assurance.* **Precedent 176.**

WHEREAS the said A.B. hath contracted and agreed with the said C.D. for the absolute sale to him of the said policy of assurance, and the moneys and advantages thereby secured free from incumbrances at the price of £

Recital of a contract for purchase of a policy of life assurance.

177. *Recital of an Appointment of Leaseholds by a Will.* **Precedent 177.**

WHEREAS the said A.B. duly made and executed her last will, dated, &c., and in exercise of the power contained in the said settlement, she thereby devised and appointed the premises comprised in the said lease to C.D., his executors, administrators, and assigns, for the residue of the said term of years. And the said testatrix appointed the said E.F. and G.H. executors of her said will.

Recital of an appointment of leaseholds by will.

Precedent 178. *Recital of a Death and Probate of a Will by one Executor.*

Recital of a death and probate of a will by one executor.

WHEREAS the said A.B. died on the day of , 18 , without having altered or revoked her said will, and the said E.F., having renounced probate thereof, the said will was duly proved in the Registry of the Probate Division of the High Court of Justice on the day of , 18 , by the said G.H. alone.

Precedent 179. *Recital of Executor's Assent to a Bequest.*

Recital of executor's assent to a bequest.

WHEREAS the said A.B. has assented to the bequest so made by the will of the said testator to the said C.D., testified by his executing these presents.

Precedent 180. *Recital of a Deposit of a Lease.*

Recital of a deposit of a lease.

WHEREAS the said A.B., in the month of , 18 , deposited the said lease with the said C.D., and undertook to execute a mortgage of the property thereby demised, as security to the said C.D., for the payment of the amount then lent or due, or to become due to the said C.D. from the said A.B., with interest thereon, on which security there is now due £ for principal money and interest.

Precedent 181. *Recital of a Mortgage of Leaseholds to a Building Society.*

Recital of a mortgage of leaseholds to a building society.

WHEREAS by an indenture dated, &c., and made between the said A.B. of the one part, and C.D., E.F., and G.H., trustees, of the Benefit Building Society, of the other part, after reciting that the said A.B. was a member of the said Society, and as such entitled to

receive out of the funds thereof the sum of £ ,
in respect of shares held by him therein, on
giving the security in respect thereof required by its
rules, it was witnessed that, in consideration of £
then paid by the said trustees out of the funds of the
said Society to the said A.B., the premises in the said
indenture of lease, particularly mentioned and described,
with the appurtenances, were assigned unto the said
trustees, their executors, administrators, and assigns, for
the residue of the said term of years, subject to the rents
and covenants in the said lease reserved and contained
upon trust for the said A.B., his executors, adminis-
trators, and assigns, so long as he or they should duly
make and pay the said subscription moneys, fines, and
payments, and observe and perform the rules and regu-
lations made payable or prescribed in and by the rules of
the said Society, or any other rule or rules thereof for
the time being subsisting in respect of the said
shares then held by the said A.B. as aforesaid, and of
any other share or shares which he, his executors,
administrators, or assigns should or might thereafter
purchase or hold in the said Society, in respect whereof
an advance or advances, evidenced by a memorandum,
endorsed upon those presents, and signed by him or
them, should thereafter be made out of the funds of the
said Society, on security of the said premises.

182. *Recital of a Memorandum of Further Charge* **Precedent**
to a Building Society. **182.**

WHEREAS by a memorandum dated, &c., endorsed on the said indenture of mortgage, and signed by the said A.B., he charged the premises with the payment of £
to be made in respect of other shares (which he had since purchased and then held) according to the rules of the

*Recital of a
memorandum
of further
charge to a
building
society.*

said Society, in addition to the payments to be made in respect of the said before-mentioned shares.

Precedent 183. *Recital of a Contract for Sale of Freeholds in Consideration of an Annuity.*

Recital of a contract for sale of freeholds in consideration of an annuity.

WHEREAS the said A.B. has agreed with the said C.D. for the absolute sale to him of the hereditaments herein-after particularly described and the freehold and inheritance thereof in fee simple in possession free from incumbrances in consideration of the annual sum or yearly rent-charge of £ to be limited to the said A.B. for his life, and to be secured to him as hereinafter mentioned.

Precedent 184. *Recital of a Bond given as collateral Security.*

Recital of a bond given as collateral security.

WHEREAS by a bond or deed poll dated, &c., under the hands and seal of the said A.B. and C.D., the said A.B. as principal, and the said C.D. as surety, became jointly and separately bound to the said E.F. in the sum of £ , conditioned to be void on the repayment to the said E.F. of £ advanced and lent by him to the said A.B., upon the deposit, by way of securities, of two policies of life assurance, which were thereby charged with the payment of the said sum of £ and interest, after the rate and in manner therein mentioned.

Precedent 185. *Recital of Indebtedness on an Award.*

Recital of indebtedness on an award.

WHEREAS the said A.B. is indebted to the said C.D., upon an award made by Y.Z., on a submission made by them to his award concerning certain matters in difference between them, and upon which reference the said

Y.Z., on the day of , 18 , awarded that the said A.B. should pay to the said C.D. £ , with interest thereon after the rate of £ per cent. per annum from the date of the said award until payment; and there is also due from the said A.B. to the said C.D. £ paid for the said award.

186. Recital of a Deposit of Deeds.

**Precedent
186.**

WHEREAS the said A.B., on the day of , 18 , deposited the title deeds of the said piece of land, messuage, and hereditaments with the said C.D., as security for £ and interest.

*Recital of a
deposit of
deeds.*

187. Recital of Agreement that Purchase Money should be paid to Mortgagees in Part Satisfaction.

**Precedent
187.**

WHEREAS upon the treaty for the said sale it was agreed that the said sum of £ should be paid to the said A.B. and C.D. in part discharge of the said principal sum and interest owing to them as aforesaid, and that they should join in these presents in manner hereinafter appearing.

*Recital of
agreement
that purchase
money should
be paid to
mortgagees in
part satis-
faction.*

188. Recital of Mortgagees having consented to release Land.

**Precedent
188.**

WHEREAS the said A.B. and C.D., being satisfied that the other hereditaments comprised in the said indenture of mortgage are a sufficient security for the whole of the principal money and interest intended to be thereby secured, have consented that the said sum of £ , shall be paid to the said E.F., and have agreed to join in these presents in manner hereinafter appearing.

*Recital of
mortgagees
having con-
sented to
release land.*

Precedent 189. *189. Recital of an Auction Sale of Leaseholds by Executors.*

Recital of an auction sale by executors.

WHEREAS the said A.B. and C.D., in pursuance of the said recited will, advertised the tenant's interest in the unexpired residue of the said term in the premises for sale by public auction, at _____, on the _____ day of _____, 18____, at which sale the said E.F. became the purchaser thereof, at the price of £_____, and thereupon paid £_____ to the said A.B. and C.D., by way of deposit and in part payment of the said purchase-money, leaving a balance of £_____ due in respect thereof.

Precedent 190. *190. Recital of a Purchase having been made on a Joint Account.*

Recital of a purchase having been made on a joint account.

WHEREAS the said A.B. made the said purchase as the agent for and on behalf of himself and C.D., out of moneys belonging to them jointly, and the said A.B. has requested the said E.F. to assign the said hereditaments to himself and the said C.D. in manner hereinafter appearing. (a)

Precedent 191. *191. Recital of a Partnership.*

Recital of a partnership.

WHEREAS by articles of agreement dated, &c., and made between A.B. of the one part, and C.D. of the other part, the said A.B. and C.D. agreed to become and remain co-partners in the business of _____ for all the residue

(a) The case of *Bartlett v. Pickersgill* (4 East, 577 n) is a distinct authority for the proposition that where a person employed to buy an estate for another, without there being any written evidence of such employment, buys the estate in his own name and refuses to convey to his principal, the court will not, after the execution of a conveyance to the agent, compel him at the suit of the principal to convey to the latter. But see *Heard v. Pilley* (L. Rep. 4 Ch. App. 548) and *Cave v. Mackenzie* (46 L. J. Ch. 564).

then to come and unexpired of the term of ,
 created by the said indenture of lease, under the style or
 firm of "A.B. and Co." And it was thereby, amongst
 other things, agreed that the said business should be
 carried on upon the said land demised by the said lease ;
 and that the said A.B. should thenceforth stand and be
 possessed of the said indenture of lease as a trustee for
 the said partnership, as part of the assets, and not other-
 wise, and that he should, upon request, assign and
 transfer the same so as to effectually vest in the said
 parties thereto the said lease in equal shares.

192. *Recital of a Disclaimer.*

**Precedent
192.**

WHEREAS by a deed poll dated, &c., under the hand and
 seal of the said A.B., the said A.B. did disclaim and
 renounce all the real and personal estate and effects,
 given, devised, or bequeathed to him by the said will, and
 also the respective offices of trustee and executor of the
 said will, and all trusts, powers, and authorities by the
 said will expressed to be reposed in or given to them the
 said A.B., C.D., and E.F.

*Recital of a
disclaimer.*

193. *Recital of Ownership of Fixtures, &c.*

**Precedent
193.**

WHEREAS the said A.B. is possessed of the fixtures, goods,
 and chattels specified in the schedule hereunder written,
 which are now in and about the premises hereinafter
 described.

*Recital of
ownership of
fixtures, &c.*

194. *Recital as to Production of Deeds.*

**Precedent
194.**

WHEREAS it has been also agreed that the several deeds
 and writings specified in the schedule hereto, which
 relate as well to the hereditaments intended to be hereby

*Recital as to
production of
deeds.*

granted as to other hereditaments should remain in the custody of the said A.B., and that these presents should contain such covenants relative thereto as are hereinafter contained.

**Precedent
195.**

195. Recital of a Lease being Partnership Property.

Recital of a lease being partnership property.

WHEREAS at the time of the granting of the said lease the said A.B. was a partner with the said C.D. and E.F. in the then existing firm of "C.D. and Co." and the said lease was in fact the property of and held by the said A.B. as part of the estate and effects of the said partnership firm as he doth hereby admit.

**Precedent
196.**

196. Recital of an Agreement to assign a Lease on the Dissolution of a Partnership.

Recital of an agreement to assign a lease on the dissolution of a partnership.

WHEREAS the said A.B. sometime since retired from the said firm of "C.D. and Co." and on the treaty for his retirement, and as part of the arrangement for carrying out the same, it was agreed between the said parties that the said A.B. should execute such assignment of the said premises as is hereinafter contained.

**Precedent
197.**

197. Recital of an Agreement for a Partition of Freeholds.

Recital of an agreement for a partition of freeholds.

WHEREAS the said A.B. and C.D. are seised of or well entitled to the piece of land and hereditaments hereinafter described, with the appurtenances for an estate of inheritance in fee simple, in possession free from incumbrances, and they have mutually agreed to effect such partition as is hereinafter contained.

198. *Recital of the Dissolution of a Partnership.* **Precedent 198.**

WHEREAS by an indenture dated, &c., and made between the said A.B. of the one part, and the said C.D. of the other part, after reciting (among other things) that the said A.B., having determined to retire from the said partnership, all the partnership accounts, dealings, and transactions had been adjusted and settled between the said parties, it had been mutually agreed that the said partnership should be dissolved, and the said partnership was thereby dissolved accordingly, as from the day of 18 ; and that the said A.B. should, on the signing thereof, retire from the said concern, and a notice of such dissolution, signed by the said A.B. and C.D., had been, or was intended to be, inserted in the *London Gazette*, it was witnessed that for the consideration therein mentioned the said A.B. did assign unto the said C.D. the one equal half part or share, and all other the part share and interest of the said A.B., of and in all and singular the goods, wares, merchandise, stock-in-trade, capital, fixtures, goodwill, trade name, property, and effects belonging or due and owing to the said A.B. and C.D., as such partners as aforesaid, and all the estate and interest of the said A.B. therein. To hold the same unto the said C.D., his executors, administrators, and assigns, for his and their own use and benefit.

199. *Recital of an Agreement to accept a Surrender of Leaseholds.* **Precedent 199.**

WHEREAS the said A.B., at the request of the said C.D., has agreed to grant to him a new lease of the said piece of land and premises for a term, at a rent and subject to certain terms and conditions already agreed upon between them, on having a surrender of the present lease made in manner hereinafter appearing.

Precedent 200. *200. Recital of an Assignment for Benefit of Creditors.*

Recital of an assignment for benefit of creditors.

WHEREAS by an indenture dated, &c., and made between A.B. of the first part, C.D. and E.F. of the second part, and The several persons, &c. [*creditors*], of the third part, the said A.B. did grant and convey unto the said C.D. and E.F., their heirs and assigns, All and singular the lands, messuages, tenements, hereditaments, and real estate, whatsoever and wheresoever situate, of or to which the said A.B. or any person or persons in trust for him, was or were seised, possessed, or entitled, and all leasehold and copyhold estates, lands, messuages, buildings, and tenements whatsoever and wheresoever situate, with all appurtenances whatsoever to the same belonging, and all reversions and remainders, rents, issues, and profits thereof, and all the estate and interest of the said A.B. therein or thereto. And the said A.B. did assign unto the said C.D. and E.F., their executors, administrators, and assigns, all the goods, chattels, personal estate, substance and effects whatsoever and wheresoever of the said A.B. or wherein or whereto he or any person or persons in trust for him was or were interested. And it was by the indenture now in recital declared that the said grant and assignment thereinbefore contained were so made to the said C.D. and E.F., their heirs, executors, administrators, and assigns respectively upon trust, that they or the survivor of them, his heirs, executors, or administrators, should at any time thereafter whenever they or he should in their or his absolute discretion think most advisable, sell, convey, transfer, assign and dispose of all the said hereditaments and real leasehold and copyhold estates, and all the personal estate thereinbefore respectively granted and assigned either by public auction or private contract, or partly by one and partly by the other mode, for such price or prices as they or he

should in their or his discretion think proper; and to stand possessed of all moneys to be received by them or him under or by virtue of the now reciting indenture, upon the trusts therein mentioned. And it was thereby declared that the receipt of the said C.D. and E.F. should be a sufficient and effectual discharge to the purchaser or purchasers of the said hereditaments and premises thereby granted and assigned, or any part thereof, for his, her, or their purchase money; and that no purchaser, his, her, or their executors, administrators, or assigns, should afterwards be in anywise liable to see to the application of such purchase money, or be answerable or accountable for the misapplication or non-application thereof.

201. *Recital of an Enfranchisement under the Copyhold Acts.*

**Precedent
201.**

WHEREAS by an order of enfranchisement, dated, &c., under the hands and seals of the Copyhold Commissioners, the said commissioners, in pursuance of the powers vested in them by the Copyhold Acts, did, by that award of enfranchisement, duly enfranchise unto the said A.B. his heirs and assigns the piece of land and hereditaments to which the said A.B. was so admitted as aforesaid with the appurtenances [*add here, if so, save and except all the rights reserved by "The Copyhold Act, 1852," s. 48, or as the case may be*]. To hold the same [save and except as aforesaid] unto and to the use of the said A.B., his heirs and assigns as freehold, thenceforth and for ever discharged from all fines, heriots, reliefs, quit rents, and all other incidents whatever of copyhold or customary tenure.

Recital of an
enfranchise-
ment under
the Copyhold
Acts.

Precedent 202. *Recital of a Conveyance to Uses to bar Dower subject to Reservations and Restrictions.*

Recital of a conveyance to uses to bar dower subject to reservations and restrictions.

WHEREAS by an indenture dated, &c., and made between A.B. of the one part, and C.D. of the other part, the [piece or parcel of land and] (a) hereditaments hereinafter described, and intended to be hereby [appointed and] granted, with the appurtenances [but subject to the reservation hereinafter referred to] were assured and limited to such uses [for such estates and in such manner] as the said C.D. should by deed appoint, and in default of [and until and subject to] any such appointment, to the use of the said C.D. and his assigns, during his life, without impeachment of waste, with remainder to the use of Y.Z., his executors, and administrators, during the life of the said C.D., in trust for him and his assigns, with remainder to the use of the said C.D., his heirs and assigns. And in the indenture now in recital were contained certain covenants on the part of the said C.D., his heirs, executors, administrators, and assigns, restrictive of the mode of user and enjoyment of the said [piece or parcel of land and] hereditaments hereinafter described and intended to be hereby [appointed and] granted.

Precedent 203.

203. Recital of a Reconveyance.

Recital of a reconveyance.

WHEREAS by an indenture dated, &c., and made between A.B. of the one part, and C.D. of the other part, after recitals by which it appeared that the sum of £ only was then owing to the said A.B. upon the security of the said indenture of, &c., it was witnessed that in consideration of the sum of £ to the said A.B.,

(a) The words within brackets may be omitted when conciseness is desired.

paid by the said C.D. the said A.B. did thereby grant unto the said C.D. his heirs, executors, administrators, and assigns (amongst other things) the said premises comprised in the said indenture of, &c. To hold the same unto and to the use of the said C.D. his heirs, executors, administrators, and assigns discharged from all principal and other moneys, interest, and costs intended to be secured by the said indenture of, &c.

Releases.(a)

204. *Release by Creditors of an Intestate on Payment of Composition by Administrator.* **Precedent 204.**

WE, THE UNDERSIGNED, being respectively creditors of A.B., late of &c., deceased, to the amount of the several sums of money placed opposite to our respective names or firms in the first column hereunder written, in consideration of the several sums of money placed opposite to our respective names or firms in the second column hereunder written, and paid to us respectively by C.D., of &c., administrator of the said A.B., on our respectively executing these presents, being after the rate of in the pound upon the amount of our respective debts mentioned in the said first column, and in full

Release by creditors of an intestate on payment of composition by administrator.

(a) A parol contract before breach may be released by parol: (*Goss v. Lord Nugent*, 5 B. & Ad. 58.) See also, as to release after breach, *Dobson v. Espie* (26 L. J. Ex. 240.) But a contract under seal can be released only by an instrument under seal: (*Brooks v. Stuart*, 9 A. & E. 8, 54; *Littler v. Holland*, 3 T. R. 590.)

Proviso reserving rights against third parties.

satisfaction of such debts, except as is hereinafter provided, do hereby for ourselves respectively, and for our respective heirs, executors, administrators, and partnership firms, and not one of us for the other of us, or for the acts and deeds of the others or other of us, but each and every of us doth hereby for himself and for his own acts, heirs, executors, administrators, and partnership firms only, COVENANT with and declare to the said C.D., his executors and administrators, that this present covenant shall operate and enure, and may be pleaded in bar as a good and effectual release and discharge of all and all manner of actions, suits, bills, bonds, writings, obligatory debts, dues, accounts, trusts, claims, and demands whatsoever, both at law and in equity or otherwise howsoever, which we or any of us, or our or any of our heirs, executors, and administrators, now have or hath, or hereafter shall or may have, challenge, claim, or demand against the estate or effects of the said A.B., deceased, or against the said C.D. as such administrator as aforesaid, his executors, or administrators, or his or their estate or effects, or any of them, for or by reason or on account of all and every or any of the debts to us or to any of us, or our partnership firms respectively, due or owing from the estate of the said A.B., deceased, as aforesaid, or of any interest or commission due or demandable for the same, or for or by reason or on account of any other matter, cause, or thing whatsoever in respect of the said several debts. PROVIDED ALWAYS, and it is hereby declared, that the aforesaid release or anything herein contained shall not in anywise prejudice or affect the rights or claims of us the said creditors, or any of us, against any person or persons other than the said A.B., deceased, who are or may be or have rendered themselves jointly liable with the said A.B., deceased, for the amount of our respective debt or debts. IN WITNESS, &c.

Creditors' signatures.	Seals.	1st column.			2nd column.			Signed, sealed, and delivered in the presence of
		Amount of debt released.			Amount of composition paid.			
		£	s.	d.	£	s.	d.	

205. *Release by Creditors to Attorney of their Debts against his Principal on Payment of a Composition.* **Precedent 205.**

TO ALL TO WHOM THESE PRESENTS shall come the under-
signed creditors of A.B., of &c., send greeting.
WHEREAS, &c. [*recital of power of attorney*]. AND Recital of power of attorney.
WHEREAS the said C.D. [*agent*] has done and performed various acts and things under and in pursuance of the
said power and authority conferred upon him by the said
recited deed-poll. AND WHEREAS a meeting of the Meeting of creditors and resolution to realise.
creditors of the said A.B. was held on the day of
 , 18 , at which meeting the said C.D. was also
present, and a resolution was then passed to the effect
that the said C.D. should instruct Mr. , accountant,
to realise the estate and effects of the said A.B. to the
best advantage, and that the assets thereof (after pay-
ment thereof of all expenses in any manner incidental
to the said realisation of the said estate and effects, and
the distribution of the said assets and all expenses
incurred in and about the said meeting of creditors, and
the carrying that resolution into effect) should be equally
distributed among the creditors of the said A.B., and
that the said creditors should thereupon execute to the
said A.B. and C.D., as such attorney as aforesaid, such

**And result of
realisation.** release as is hereinafter contained. AND WHEREAS, in
pursuance of the said resolution, the said accountant has
realised to the best advantage the estate and effects of
the said A.B., and (after allowing and deducting such
expenses as aforesaid) the sum of £ , amounting
to a composition of in the pound on the amount
of the respective debts of the creditors of the said A.B.,
remains in the hands of the said accountant for distri-
Witnesseth. bution among the said creditors as aforesaid. Now
Consideration. THESE PRESENTS WITNESS that, in consideration of the
premises and of the payment to us the undersigned
creditors of the said A.B., at the time of our respectively
signing and executing these presents, of the several
sums of money placed opposite our respective names in
Receipt. the second column hereunder written, the receipt of
which said sums respectively we, the undersigned
creditors of the said A.B., do hereby acknowledge
and therefrom do absolutely acquit, release, and dis-
charge the said A.B., his heirs, executors, and adminis-
trators, and also the said C.D., as such attorney as afore-
said, his heirs, executors, and administrators, we the
undersigned creditors of the said A.B. do by these
Release. presents remise, release, discharge, and for ever quit
claim, unto the said A.B., his heirs, executors, and
administrators, and the said C.D., as such attorney as
aforesaid, his heirs, executors, and administrators, and
Debts. their respective estates and effects, ALL and all manner
of actions, suits, causes of action and suit, debts, dues,
sum and sums of money, accounts, reckonings, claims,
and demands whatsoever, both at law and in equity,
which we the said creditors of the said A.B., or our or
any of our partners respectively, or any other person or
persons whom we or any of us can bind by these
presents, now have, or which we or any of us, our or
any of our heirs, executors, or administrators, but for
these presents, could, would, or might at any time or

times hereafter have upon or against the said A.B. and C.D., as such attorney as aforesaid, their or his heirs, executors, or administrators, or their or his estate or effects, or any of them, for or by reason or on account of any matter, cause or thing whatsoever up to and inclusive of the day of the date of these presents. In WITNESS, &c.

Creditors' signatures.	Seals.	1st column.			2nd column.			Signed, sealed, and delivered in the presence of
		Amount of debt released.			Amount of purchase money paid.			
		£	s.	d.	£	s.	d.	

206. Release from a Debt owing by a Firm.

**Precedent
206.**

To A.B., of &c. [*debtor*].

IN CONSIDERATION of your dissolving the partnership heretofore existing between yourself and my son, D.D., upon the terms agreed to between you on the day of instant, I hereby discharge you, and also the partnership firm of "A.B. and Co.," from the debt of £ , or whatever the amount may be, now due and owing by you or that firm to me, and from all claims and demands on account thereof. AND I UNDERTAKE to execute and deliver to you, upon request, any more formal release or discharge from the said debt that you may require.

DATED the day of 18 .
C.D. [*creditor*].

Precedent 207. *Release between a Purchaser and a Vendor.*

To A.B., of &c. [*vendor*].

Release
between a
purchaser and
a vendor.

REFERRING TO YOUR AGREEMENT with me, dated, &c., whereby you agreed that, in the event of your becoming the purchaser of the land and dwelling house at , then building by you under contract with me that you would finish and complete the same according to the contract, and would convey the property to me on payment to you of the amount that should be due on a final adjustment of accounts in respect of that property, and of interest at £ per cent. per annum on all moneys paid by you from the date of payment, including all legal charges, surveyor's fees, and other expenses, such conveyance, and all other charges incidental thereto, to be at my expense, and you have some time since finished and completed the said premises accordingly, I now find, after investigating the accounts, that I am totally unable to purchase the property from you, or to pay the price thereof. I THEREFORE REQUEST you to release and discharge me from the said agreement of the day of , 18 , so far as it remains to be performed on my part, and, in consideration of your so doing, I undertake and agree that, should you become the purchaser of the said property, you shall hold the same discharged from your said agreement with me, and from every term, condition, or stipulation therein contained, in like manner as if the same had never been entered into; and I hereby discharge the same accordingly, and declare that I have no further claim whatever to, or in respect of, the said property, or any part thereof.

DATED the day of 18 .
C.D. [*purchaser*].

I AGREE to the terms above proposed, and hereby

release and discharge the said C.D. from the said agreement.

A.B. [vendor].

208. *Release to a Mortgagee of the Equity of Redemption in Freeholds by the Parties entitled under the Will of a deceased Mortgagor* (endorsed). **Precedent 208.**

THIS INDENTURE, made, &c., BETWEEN E.F., of &c., and Parties.

M. his wife, G.H., of &c., and N. his wife, J.K., of &c., and L.M., of &c. [releasors], of the one part, and the within-named C.D. [mortgagee], of the other part.

WHEREAS the within-named A.B. [mortgagor] duly made and executed his last will, dated, &c., and thereby, after directing the payment of his just debts, funeral and testamentary expenses, gave and bequeathed the hereditaments comprised in the within-written indenture to the said M.F., N.H., J.K., and L.M. equally between them, share and share alike, and appointed W.X. and Y.Z. executors of the said will. AND WHEREAS the within-named A.B. died on the _____ day of _____, 18____, without having revoked or altered his said will. AND WHEREAS the said will of the within-named A.B. was on the _____ day of _____, 18____, duly proved by the said W.X. alone in the Registry of the Probate Division of the High Court of Justice, the said Y.Z. having first duly renounced probate thereof. AND WHEREAS the said M.F. (being then M.B., spinster) in the year 18____ intermarried with and became, and still is the wife of, the said E.F. AND WHEREAS the said N.H. (being then N.B., spinster) in the year 18____ intermarried with and became, and still is the wife of, the said G.H. AND WHEREAS the sum of £____ is now due and owing to the said C.D. for principal and interest in respect of the within-written

Recital of will of mortgagor.

His death and probate of his will.

Marriage of M.F.

Marriage of N.H.

Amount owing on the mortgage.

Application
for payment
and threat of
proceedings to
foreclose.

And proposal
by bene-
ficiaries to
release the
equity to the
mortgagee.

Witnesseth.

Consideration.

Release.

Parcels.

To the intent
that same may
be held by the
mortgagee.

indenture of mortgage (as the said E.F. and M. his wife, G.H. and N. his wife, J.K., and L.M. hereby severally admit). AND WHEREAS the said C.D. has lately applied to the said E.F. and M. his wife, G.H. and N. his wife, J.K. and L.M., for payment of the amount so due to him for principal and interest as aforesaid, and has intimated his intention, unless the same be paid to him, of instituting proceedings in the Chancery Division of the High Court of Justice for the foreclosure of the equity of redemption to which the said E.F. and M. his wife, G.H. and N. his wife, J.K. and L.M., are entitled in respect of the within-mortgaged hereditaments. AND WHEREAS the said E.F. and M. his wife, G.H. and N. his wife, J.K. and L.M., being unable to comply with such request, and in order to avoid the expense of such proceedings, have agreed and determined to execute such release of their respective interests in the said hereditaments and premises under the hereinbefore in part recited will as is hereinafter contained. Now THIS INDENTURE WITNESSETH that, in pursuance of such determination and agreement, and in consideration of the premises, they, the said E.F. and M. his wife, G.H. and N. his wife, J.K. and L.M. do, and each of them doth, hereby remise, release, and quit claim unto the said C.D. and his heirs, ALL and every the parts, shares, and interest to which they, the said E.F. and M. his wife, G.H. and N. his wife, J.K. and L.M., or any of them, are, is, or may be entitled under or by virtue of the said will of the said A.B., of and in the hereditaments and premises comprised in the within-written indenture, and of and in the rents and profits thereof respectively. To THE INTENT that the same may be henceforth held by the said C.D., and his heirs, to the use of the said C.D., his heirs, and assigns, free from all actions, suits, proceedings, claims, and demands, of the parties hereto of the first part, or any of them, in respect of the said here-

ditaments and premises, or any part thereof. (a) IN
WITNESS, &c.

209. Release of an Annuity charged on Land. Precedent 209.

THIS INDENTURE made, &c., BETWEEN A.B. of, &c. [annuitant and releasor], of the one part and C.D. of &c. [releasee], of the other part. WHEREAS by an indenture, dated &c., and made between the said C.D. of the one part and the said A.B. of the other part, he the said C.D. conveyed and assured the piece of land, messuage, and dwelling-house hereinafter described, and intended to be hereby granted unto the said A.B. and his heirs to the use that an annual rent charge of £ , 18 , should be charged upon the said hereditaments and received by the said C.D. and his assigns during his life and subject thereto to the use of the said A.B., his heirs, and assigns. And by the same indenture the said A.B. for himself, his heirs, executors, and administrators, covenanted with the said C.D. that he the said A.B. his heirs, executors, or administrators would pay to the said C.D. and his assigns during his life one annuity or yearly sum of £ by equal quarterly payments in advance on the day of , the day of , the day of , and the day of , in every year, a proportionate part of the first quarterly payment of the said annuity computed from the day of to the day of , to be made on the day of the date of the indenture now in recital, and the whole of the second of such quarterly payments on

(a) This deed must be acknowledged by the married woman (3 & 4 Will. 4, c. 74, s. 77), for to bind interests of married women out of court, although merely equitable, some deed should be executed and acknowledged: (*Wilkinson v. Castle*, 16 W. R. 501.)

the day of and the whole of every subsequent quarterly payment to be made in advance in like manner on the day whereon the same should accrue due. AND WHEREAS the payments of the said annuity accruing due on the day of and the day of have been paid by the said A.B. in accordance with the covenant to that effect contained in the said recited indenture, as the said A.B. hereby admits. AND WHEREAS the said A.B. has agreed with the said C.D. to convey to him the piece of land, messuage, or dwelling house hereinafter described, and the inheritance thereof in fee simple upon being released from the said annuity or yearly rent charge in future in manner hereinafter appearing. NOW THIS INDENTURE

Witnesseth. Consideration. Grant. Parcels. Habendum. And to the intent that annuity may be extinguished. Release. Covenant by A.B. against incumbrances.

WITNESSETH that in consideration of the release hereinafter contained he the said A.B. hereby grants unto the said C.D., his heirs, and assigns. ALL THAT, &c. [parcels]. To HOLD the same unto and to the use of the said C.D., his heirs and assigns. AND to the intent that the said annuity or yearly rent charge may be extinguished. AND the said C.D. in consideration of the premises hereby releases and discharges the said A.B., his heirs, executors, and administrators, from all actions, suits, claims, and demands, which he the said C.D. now has, or otherwise might have against the said A.B. his heirs, executors, or administrators, by reason or on account of the said annuity or yearly rentcharge of £ or anything contained in the said recited indenture of, &c. AND the said A.B., for himself, his heirs, executors, and administrators, hereby COVENANTS with the said C.D., his heirs, and assigns that he the said A.B. has not done or knowingly suffered anything whereby the said premises are or may be impeached, affected, or incumbered. IN WITNESS, &c.

Statutory Declarations.

210. Declaration by an Attesting Witness to a **Precedent** Notice of Dissolution of Partnership.(a) **210.**

I, A.B., of &c. [*attesting witness*], do solemnly and sincerely declare that I was present and did see M.N. and O.P., both of &c., the partners mentioned in the notice of dissolution of partnership hereunto annexed, marked "A.," and whose names are signed thereto, respectively sign the same. AND that the names "M.N." and "O.P." set and subscribed thereto are of the proper handwritings of each of them the said M.N. and O.P., and that the name "A.B." set and subscribed thereto as the witness attesting the signatures thereto, is of the proper handwriting of me the said A.B. AND I make this solemn Declaration conscientiously believing the same to be true, and by virtue of the Provisions of an Act made and passed in the sixth Year (b) of the Reign of His late Majesty King William the Fourth, intituled "An Act to repeal an Act of the present Session of Parliament, intituled 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of

(a) See Precedent 114, *ante*, p. 179, and note (a), p. 180.

(b) "The blank in the schedule ought to be filled up with the word 'sixth' only. No single Act of Parliament can be passed in two years of the King's reign."—*Extract from a written opinion of the late Lord Campbell*. More frequently than not it will be found that practitioners and precedents alike differ from the ex-chancellor's dictum.

voluntary and extra-judicial Oaths and Affidavits, and to make other Provisions for the Abolition of unnecessary Oaths,' "

DECLARED and subscribed (a) at _____, in the
County of _____, this _____ day of _____, 18 ____ } A.B.
Before me,
Y.Z.,

A Commissioner to administer Oaths in the Supreme Court of Judicature in England.

Or, A Justice of the Peace in and for the said County [City, or Borough] of _____.

Precedent 211. *Declaration by an Attesting Witness to the Execution of a Deed.*

Declaration by I, A.B., of &c. [attesting witness], do solemnly and an attesting witness to the execution of a deed.

sincerely declare that I was present and did see C.D., of &c., the person named in the notice hereunto annexed marked "A," sign, seal, and as his act and deed deliver the deed of _____ therein referred to. AND that the name "C.D." set and subscribed to the said deed, is of the proper handwriting of the said C.D.; and that the name "A.B." set and subscribed thereto as the witness attesting the execution thereof, is of the proper handwriting of me this deponent. AND I make, &c. [statutory conclusion].

(a) As a rule it is not necessary that a declarant should actually subscribe as well as declare to the truth of his declaration in the presence of the party taking it, but in naturalization applications he should do so, and as some importance may be attached in foreign countries to the additional formality, it is prudent also to adopt this form in the case of declarations taken for use abroad.

212. *Declaration by a Vendor that Hereditaments to be comprised in Conveyance are Unincumbered.* **Precedent 212.**

I, A.B., of &c. [*vendor*], do solemnly and sincerely declare that I have not committed any act whereby I am liable to be adjudicated a bankrupt, nor have I at any time heretofore petitioned any court for the liquidation of my affairs, or assigned my estate for the benefit of or in trust for creditors, and that I am not in anywise indebted to Her Majesty Queen Victoria, and that there are no Crown debts, judgments, writs, or other process of execution, pending suits, or incumbrances of any kind whatsoever registered or recorded against me in anywise affecting the piece of land and buildings thereon erected, situate in Street aforesaid, recently sold and agreed to be conveyed by myself [and others] to C.D., of &c. [*purchaser*], for £ , the conveyance whereof is already engrossed and is intended to bear even date herewith. AND I declare that I [and my mortgagees] have full and absolute power to grant and convey the said hereditaments and premises to the said C.D., so that the same may be held by him, his heirs, and assigns, free from all incumbrances whatsoever [except, *if so*, the restrictive covenants affecting the same], created or occasioned by me, or any person or persons claiming through, under, or in trust for me.^(a) AND I make, &c. [*statutory conclusion*].

213. *Declaration by a Mortgagor of Chattels that they are Unincumbered.* **(b) Precedent 213.**

I, A.B., of &c. [*mortgagor*], do solemnly and sincerely declare that I have not committed any act whereby I am

(a) See as to judgments 1 & 2 Vict. c. 110; 2 & 3 Vict. c. 11; 18 & 19 Vict. c. 15; 23 & 24 Vict. c. 38; and 27 & 28 Vict. c. 112.

(b) See hereon *Reg. v. Meakin* (20 L. T. Rep. N. S. 544).

liable to be adjudicated bankrupt, nor at any time heretofore petitioned any Court for the liquidation of my affairs, or assigned my estate for the benefit of or in trust for creditors, and that there are no judgments, writs, or other process of execution, pending suits, or incumbrances of any kind, affecting the fixtures, furniture, effects and things now in, upon, or about the dwelling house and premises in Street aforesaid, occupied by me, which I have this day assigned by way of mortgage to C.D., of &c. [*mortgagee*], for securing to him the repayment of £ , and interest thereon, which mortgage bears even date herewith. AND I declare that I have good right and full power to assign the said fixtures, furniture, effects, and things to the said C.D., his executors, administrators, and assigns, in manner aforesaid; and that the same may be held by him and them free from incumbrances. AND I declare that so long as any money shall be due to the said C.D. on the said security I will not do or commit any act or thing whereby the said security may be prejudiced or affected, or remove, conceal, or dispose of any of the property therein comprised, without the previous written consent of the said C.D. AND I make, &c. [*statutory conclusion*].

Precedent 214. 214. *Declaration as to the Identity of a Plot of Land.*

Declaration as to the identity of a plot of land. I, A.B., of &c. [*declarant*], do solemnly and sincerely declare that the plot of land coloured in the plan hereto annexed, marked "A," is the plot of land now intended to be conveyed by C.D., of &c. [*vendor*], to E.F., of &c. [*purchaser*], and is a portion of a certain piece of freehold land on the side of , in aforesaid, containing square yards,

and of a piece of freehold land immediately adjoining, containing square yards, which two pieces of land were, by indenture, dated, &c., conveyed by to . AND I further say that the piece of land firstly described in and conveyed by the said indenture of, &c., is shown on the said plan as to a portion thereof by being coloured , and as to the other portion thereof secondly described in and conveyed by the said indenture of, &c., by being coloured . AND I make, &c. [*statutory conclusion*].

215. *Declaration by a Husband that his Deceased Wife had no Separate Estate.*(a) **Precedent 215.**

I, A.B., of &c. [*husband*], do solemnly and sincerely declare that I intermarried with my late wife C., then C.D., of &c., spinster, on the day of 18 , at , and continued to live with her until her death, which happened on the day of , 18 . AND I say that my said wife C. was not, nor was or were any person or persons in trust for her, seised, possessed of, or entitled to any real or personal estate or property of any kind or nature whatever to or for her sole and separate use at any time during the said coverture, or at the time of her said death, as I know of my own knowledge. AND I make, &c. [*statutory conclusion*].

Declaration
by a husband
that his
deceased wife
had no separate estate.

(a) This, or a similar declaration, is required by some insurance offices before paying over policy moneys due to the representatives of a married woman at her death, and in their instructions they generally require it to be taken before a justice of the peace.

Precedent 216. *Declaration by an Attesting Witness to the Execution of a Power of Attorney.(a)*

Declaration by an attesting witness to the execution of a power of attorney. Borough of _____, in the County of _____, to wit. I, A.B., of &c. [*attesting witness*], do solemnly and sincerely declare that I was present and did see E.F. duly sign, seal, and as his act and deed deliver the paper writing or power of attorney hereunto annexed. AND that the name E.F. thereto subscribed is of the proper handwriting of the said E.F., and that the names "A.B." and "C.D." thereto subscribed as witnesses attesting the execution thereof are of the respective proper handwritings of me this declarant and of the said C.D. AND I make, [*statutory conclusion*].

Precedent 217. *Declaration in Proof of Debt to accompany a Power of Attorney.(b)*

Declaration in proof of debt to accompany a power of attorney. I, A.B., of &c. [*declarant*], do solemnly and sincerely declare that I carry on the business of _____, in

(a) In sending out a power of attorney to act in foreign countries, it is customary for the party to execute it in the presence of two attesting witnesses, if two can be conveniently had, and to cause it to be verified by an attesting witness by a declaration of the due execution, and also to cause a notarial certificate, authenticating it, under the signature and seal of a notary, to accompany the declaration and power. Further, it is in general recommended to get the latter also authenticated, when it can be done, under the seal of the consul of a foreign country. If a power of attorney be sent out to a British colony or possession, it is more frequent to have the declaration of due execution made before, and authenticated under the seal of, the mayor of the place where it is administered, if it can be conveniently done, than by a notary: (Brooke on the Office of a Notary, 187, 189.) The mayor's fee for taking each declaration is usually 1s. and 5s. for causing the Corporate Seal to be affixed. The Consul's fee varies; *ex. gr.* the United States Consul's fee is 10s. 4d., while the Italian Consul only exacts 4s. 10d.

(b) The power of attorney to which this declaration has particular reference is Precedent 148, *ante*, p. 220.

partnership with C.D., at aforesaid, under the style or firm of "A.B. and Co.," and that Messrs. M. N. and Co., of &c., and the person or persons constituting or composing the said firm are justly and truly indebted to me and my said partner in the sum of £

for [*here insert cause of indebtedness accurately and fully, as in a statement of claim*], the full particulars whereof, with dates and items, are truly and accurately set forth in the paper writing, or account hereunto annexed, marked A.(a)

I declare that the prices charged in the said paper writing, or account, are fair and reasonable, and such as are usually charged by in on similar transactions, and that the items of disbursement therein mentioned and expressed to have been paid or advanced were paid or advanced as thereby appeared. AND I declare that the whole of the before-mentioned sum of £

is now justly due and owing to me and my said partner on the account aforesaid; and that neither I nor my said partner, nor any person or persons by our or either of our order, or for our or either of our use, hath or have received any security or satisfaction whatsoever for the same or any part thereof. AND I make, &c. [*statutory conclusion*].

218. *Declaration as to change of a Building Society's Trustees.*

**Precedent
218.**

I, A.B., of &c. [*declarant*], do solemnly and sincerely declare as follows, that is to say:—

Declaration as to change of a building society's trustees.

(a) The account should be exhibited thus:—

This is the account marked A. referred to in the declaration of A.B. hereunto annexed, declared and subscribed this day of , 18 .

Before me,

Y.Z.,

A Commissioner, &c.

1. I am now and have been ever since its establishment at aforesaid, on or about the day of , 18 , the Secretary of the Permanent Benefit Building Society, the rules whereof have been duly certified and enrolled according to law [*or* (1), A Benefit Building Society called the Building Society was formed at aforesaid on the day of , 18 , and the rules of such society were duly allowed, certified, and deposited with the Clerk of the Peace in and for the said county, in conformity with the statute in that behalf made and provided, and shortly after the formation of the said Society I was duly appointed, and still continue, the Secretary of the said Society].
2. On the formation of the said Society, C.D., E.F., G.H., and I.K. were duly appointed trustees of the said Permanent Benefit Building Society.
3. The said G.H. and I.K., being desirous to be discharged from the office of trustee, respectively held by them in the said Society, respectively tendered on the day of 18 , their resignation thereof, and they respectively thenceforth ceased to be trustees as aforesaid; and at a General Meeting of the said Society held on the day of 18 , and convened for that and other purposes, the said resignations were accepted and duly recorded in the books of the said Society, and the said G.H. and I.K. were respectively removed from the office of trustee in conformity with the rule of the said Society [*or, if the alteration have been occasioned by death,* (3) The said G.H. died on the day of , 18 , and the said

- I.K. died on the day of , 18 , and such deaths respectively have been duly recorded in the books of the said Society].
4. The said C.D. and E.F., being the remaining or continuing trustees of the said Society, did by a writing under their hands dated, &c., in conformity with the rule of the said Society, nominate and appoint W.X. and Y.Z., both of &c., respectively to be trustees of the said Society in the place and stead of the said G.H. and I.K. respectively.
5. The said C.D., E.F., W.X., and Y.Z. are the only and present trustees of the said Society. AND I make, &c. [*statutory conclusion*].

219. *Declaration as to a Death.*

Precedent
219.

I, A.B., of &c. [*declarant*], do solemnly and sincerely declare that I am the lawful widow and relict of the late B.B., of &c., who departed this life at the city of , in the Empire of , on or about the day of 18 , and was interred in the Protestant Burial Ground at , aforesaid, and that I saw the said B.B. when dead, and was present at his funeral. AND I make, &c. [*statutory conclusion*].

Declaration as
to a death.

220. *Declaration in Proof of Heirship.*

Precedent
220.

I, A.B., of &c. [*declarant*], do solemnly and sincerely declare and state as follows:—

1. That I am now years of age.
2. That on the day of , 18 , I intermarried with C.D., of &c., spinster, and the ceremony was solemnised in the Parochial Chapel of St , in , aforesaid.

Declaration in
proof of heir-
ship.

3. That the certificate hereunto annexed marked "A." is a true and proper certificate of my said marriage.(a)

(a) As certificates of births, marriages, and deaths are so frequently called into requisition in daily practice to prove or afford *prima facie* evidence of certain facts in conveyancing matters, the following information may be of service :—

- (1.) Births are evidenced by certified extracts from the General Register, established by 6 & 7 Will. 4, c. 86 (Aug. 17, 1836), amended by, 1 Vict. c. 22. But, *semble*, these extracts afford only evidence of the fact, and not of the date, of birth: (Per Romilly, M.R., in *Re Wintle*, 21 L. T. Rep. N. S. 781).
- (2.) Baptisms are evidenced by certified extracts from the Parochial Register.
- (3.) Marriages by certified extracts from either of the two preceding Registers.
- (4.) Deaths are evidenced in the same manner as births; and
- (5.) Burials are evidenced by certified extracts from the Burial Registers, established by 16 & 17 Vict. c. 134, s. 8 (Aug. 20, 1853).

As regards these two last events, the Bank of England refuses to accept the certificate of the Registrar General as proof of the death of a proprietor of Government stock, in order to protect itself against certain classes of fraud, but will, however, accept a certificate of burial as sufficient.

The fees payable for such certified extracts, under 6 & 7 Will. 4, c. 86, are—

To the rector, vicar, or curate, &c. (s. 35):	s.	d.
For every search over not more than one year	1	0
„ additional year	0	6
„ single certificate	2	6
To the Superintendent General (s. 36):	s.	d.
For every general search	5	0
„ particular	1	0
„ certified copy	2	6
At the General Register Office (s. 37):	£	s. d.
For every general search of the indexes ...	1	0 0
„ particular „ „ ...	0	1 0
„ certified copy	0	2 6

A receipt stamp is also required to be provided by the applicant. Thus, practically, every certificate costs 3s. 7d., as the Registrar

4. That I had four children by such marriage, and no more—viz., B.B., C.B., D.B., and E.B.
5. That B.B., the first of my said children, was born on the day of , 18 , and died on the day of , 18 , a bachelor and of full age, and was interred at the Parish Church of , in the same month of .
6. That my second child, C.B., was born on the day of , 18 , and died when only months old, and was interred in the same grave with his brother B.B. shortly afterwards, and that the certificates hereunto annexed respectively marked "B." and "C." are true and proper certificates of the birth and death of my said son, C.B.
7. That my daughter, D.B., was born on the day of , and died on the day of , 18 , an infant and unmarried, and was interred at the Cemetery, at aforesaid, and that the certificate hereunto annexed marked "D." is a true and proper certificate of the death of my said daughter, D.B.
8. That my fourth child, E.B., was born on the day of , 18 , and is the only surviving child of my said marriage; and the certificate hereunto annexed, marked "E.," is a true and proper certificate of the birth of my said son, E.B.
9. That my said son, E.B., attained his majority on the day of last. AND I make, &c. [*statutory conclusion*].

General defends the practice of charging the one shilling search, even if all the particulars be given, and this custom also obtains in many local and district registries.

Precedent 221. *Declaration verifying a Certificate of Baptism, Marriage, or Death, and the Identity of the Person named therein.*

Declaration verifying a certificate of baptism, marriage, or death, and the identity of the person named therein.

I, A.B., of &c. [*declarant*], do solemnly and sincerely declare that the paper writing hereunto annexed, marked "A," contains a true copy of an entry made in the book for registering baptisms [*or marriages or burials*], for the parish of _____, so far as the same relates to the baptism [*or marriage or burial*] of C.D., of &c. [I having, on the _____ day of _____ carefully examined and compared the same with the original entry thereof in the said book (a)]. AND [*if so*], I further say that I knew [*or know*], and was [*or am*] well acquainted with the said C.D., and that he is the same person as named in the said paper writing (b). AND I make, &c. [*statutory conclusion*].

Precedent 222. *Declaration in verification of a Memorial.*

Declaration in verification of a memorial.

I, A.B., of &c. [*declarant*], do solemnly and sincerely declare that all the statements contained in [*or the contents of*] the memorial hereunto annexed, and to which I have subscribed my name, are true (c). AND I make, &c. [*statutory conclusion*].

(a) This paragraph may be omitted in the case of copies certified by the incumbent: (see 14 & 15 Vict. c. 99, s. 14.)

(b) The register or copy only proves the fact of the baptism, marriage, or death of the person therein named, and is no evidence of the identity of a party: (Powell on Evidence, 3rd edit. 420.)

(c) See Precedent 106, *ante*, p. 171.

223. *Declaration by a Memorialist verifying the Statements in his Memorial for the Grant of a Certificate of Naturalization.* **Precedent 223.**

I, A.B., of &c. [declarant], do solemnly and sincerely declare :—

1. THAT I was born at _____, in the Kingdom [or Empire or Republic] of _____, and that I am still a _____ citizen or subject.
2. THAT I am _____ years of age, and by trade or business a _____, and carry on such trade or business at _____, aforesaid.
3. THAT I have resided in _____, aforesaid, _____ years and upwards, and I am married and have children.
4. THAT I am and have been a householder, and have paid rates and taxes for the last _____ years, and I have a fixed domicile at No. _____, Street, _____, aforesaid, and I intend to reside permanently within the United Kingdom.
5. THAT I am desirous to be enabled to become a registered owner of British ships [or as the fact may be] and to enjoy the rights and capacities of a natural-born British subject except such as are by law excepted. AND I make, &c. [statutory conclusion]. _____

Declaration by a memorialist verifying the statements in his memorial for the grant of a certificate of naturalization.

224. *Declaration by four Householders vouching for the Respectability and Loyalty of a Memorialist for the Grant of a Certificate of Naturalization.* **Precedent 224.**

WE, C.D., of &c., E.F., of &c., G.H., of &c., and I.K., of &c. [declarants], do severally, solemnly, and sincerely declare (a) :—

Declaration by four householders vouching for the respectability and loyalty of a

(a) These declarants must be British-born subjects, and if it is inconvenient for them to make the declaration at the same time each declarant may make a separate declaration.

memorialist
for the grant
of a certificate
of naturalisa-
tion.

1. THAT we are well acquainted with A.B., of &c., the person applying for the grant of a certificate of naturalization.
2. THAT the said A.B. is a gentleman well known, of good standing and respectability, and of loyal principles and conduct towards Her Majesty the Queen and the Government and Constitution of the United Kingdom.
3. THAT the said A.B. was born at , in the Kingdom [*or Empire or Republic*] of , and is still, as we have heard and verily believe, a citizen or subject.
4. THAT the said A.B. is years of age as we have also heard and verily believe, and he is by trade or business a , and carries on such trade or business at , aforesaid.
5. THAT the said A.B. has resided in , aforesaid, years and upwards, and he is married, and has children.
6. THAT the said A.B. is a householder, and has a fixed domicile at No. , Street aforesaid, where he has resided for the last years.
7. THAT it is the wish and intention of the said A.B., as we have heard and verily believe, to reside permanently within the United Kingdom.
8. THAT the said A.B. is desirous, as we verily believe, of obtaining the grant of a certificate of naturalization, not only from a feeling of strong attachment to the Crown, but also with the desire of being enabled to become a registered owner of British ships, [*or as the case may be*].

AND I, the said C.D., for myself further declare:—

9. THAT I am a British-born subject and a householder, at No. , Street aforesaid, and have personally known the said A.B. for the last years.

AND I, the said E.F., for myself further declare :—

10. THAT [*here repeat preceding allegation according to the facts, and so with regard to G.H. and I.K.*]

AND we the said C.D., E.F., G.H., and I.K. severally make, &c. [*statutory conclusion*].

Surrenders.(a)

225. *Surrender of a Lease from Mortgagor, Mortgagee, and Purchaser to a Corporation.* Precedent 225.

THIS INDENTURE, made, &c., BETWEEN A.B., of &c. Parties.
[*mortgagee*], of the first part, C.D., &c., of &c. [*mort-*
[*gagor*], of the second part, E.F., of &c. [*purchaser*], of
the third part, and the Mayor, Aldermen, and Burgesses
of the Borough of , of the fourth part. WHEREAS Recital of
by an indenture of lease, dated, &c. and expressed to be lease.
made between the said Mayor, Aldermen, and Burgesses
of the one part, and W.X. and Y.Z. both of &c. [*lessees*],
of the other part, for the considerations therein men-
tioned, the piece of land hereinafter described, and in-
tended to be hereby surrendered, was, with other here-
ditaments, demised unto the said W.X. and Y.Z., their
executors, administrators, and assigns, for and during

(a) See 29 Car. 2, c. 3, s. 3, and 8 & 9 Vict. c. 106, s. 3; and the cases of *Doe dem. Courtail v. Thomas* (9 B. & C. 288); and *Lord Ward v. Lumley* (5 H. & N. 87). But taking a new lease is a surrender of the existing lease within the exception mentioned in the first cited statute (*Phené v. Popplewell*, 31 L. J. C. P. 235), explained by *Oastler v. Henderson* (46 *Ibid.* Q. B. 607).

and unto the full end and term of years thence next ensuing, at a peppercorn rent if demanded, and subject to covenants, conditions, and agreements in the said indenture of lease contained, and on the part of the lessees, their executors, administrators, and assigns, to be observed and performed. AND WHEREAS, after divers mesne assignments and acts in the law, the said piece of land, with a dwelling house erected and built thereon, became and was vested in the said C.D., his executors, administrators, and assigns, for all the residue unexpired

Vesting of premises in mortgagor. Of mortgage. of the said term of years. AND WHEREAS by an indenture, dated, &c., and made between the said C.D. of the one part, and the said A.B. of the other part, in consideration of £ to the said C.D. paid by the said A.B., the said C.D. did assign unto the said A.B., his executors, administrators, and assigns, the piece of land, dwelling house, and premises hereinafter described and intended to be hereby surrendered. To hold the same unto the said A.B., his executors, administrators, and assigns, thenceforth for the residue of the said term of years, subject to a proviso in the now reciting indenture contained for redemption of the same premises on payment by the said C.D. on the day of then next of the said sum of £ and interest after the rate of £ per

Of contract of sale. Of amount owing on the mortgage. centum per annum. AND WHEREAS the said E.F. has agreed with the said C.D. for the purchase of the said piece of land, and the dwelling-house erected thereon, for the sum of £ . AND WHEREAS the said sum of £ is still due and owing to the said A.B. on the security of the said recited indenture of the day of , 18 , but all interest for the same has been paid up to the day of the date of these presents, and upon the treaty for the said purchase it was agreed that the said sum of £ should be paid to the said A.B. out of the said purchase money, or sum of £ . AND

WHEREAS the said E.F. has applied to the said Mayor, Aldermen, and Burgesses to grant to him a new lease of the said piece of land, dwelling house, hereditaments, and premises for the term of years in the usual manner of granting such leases by them, and the said Mayor, Aldermen, and Burgesses on such application have agreed to grant such new lease accordingly, and in pursuance of such contract for sale as aforesaid the said A.B. and C.D. have agreed to surrender the said premises to the said Mayor, Aldermen, and Burgesses in manner hereinafter mentioned, to the intent that the said new lease may be granted to the said E.F. Now THIS INDENTURE WITNESSETH that, in consideration of the said agreements, and of the sum of £ on or before the execution hereof, paid to the said A.B. by the said E.F. at the request and by the direction of the said C.D., the receipt whereof the said A.B. doth hereby acknowledge, and doth declare the same to be in full satisfaction and discharge of all principal moneys and interest now due and owing to him, on the security of the said recited indenture of the day of , 18 , and of and from the same and every part thereof doth hereby release and for ever discharge, as well the said C.D., his heirs, executors, and administrators, as also the said E.F., his heirs, executors, and administrators, and every of them, for ever, by these presents, and also in consideration of the sum of £ to the said C.D. at the same time paid by the said E.F., the payment and receipt respectively in manner aforesaid of which said several sums of £ and £ (making together the said purchase money or sum of £) the said C.D. doth hereby acknowledge, and of and from the same and every part thereof doth acquit, release, and discharge the said E.F. for ever by these presents, and also in consideration of shillings by the said Mayor, Aldermen, and Burgesses, paid to each of them the said A.B.,

And of agreement for
surrender.

Witnesseth.

Consideration.

Receipt.

C.D., and E.F., the receipt whereof is hereby acknowledged, He, the said A.B., at the request and by the direction of the said C.D. and E.F. respectively, doth by these presents surrender and yield up, and the said C.D. and E.F. respectively, doth by these presents surrender and yield up, and the said C.D. doth by these presents surrender, yield up, and confirm, and the said E.F. doth hereby ratify and confirm unto the said Mayor, Aldermen, and Burgesses, and their successors, ALL that, &c. [*parcels*], TOGETHER with all rights, members, and appurtenances to the said piece of land, hereditaments, and premises belonging or in anywise appertaining. AND all the estate, term, and interest of the said A.B., C.D., and E.F., and each of them therein or thereto. To HOLD the same premises TO THE INTENT that the residue of the said term of years, created by the hereinbefore recited indenture of lease of the day of , 18 , may be merged and extinguished in the reversion in fee simple and inheritance of the said piece of land, dwelling-house, and premises hereby surrendered. AND TO THE FURTHER INTENT that the said Mayor, Aldermen, and Burgesses, or their successors, do and shall forthwith make and grant a good and valid lease to the said E.F., his executors, administrators, or assigns, of the said piece of land, dwelling house, and premises, for the term of years, subject to a peppercorn rent, and to such covenants, conditions, and agreements as are already agreed upon, and in like cases usually contained in, and with all the rights and privileges granted by the leases of the said Mayor, Aldermen, and Burgesses. AND each of them the said A.B. and E.F. doth hereby for himself, his heirs, executors, and administrators, COVENANT with the said Mayor, Aldermen, and Burgesses, their successors and assigns, that they, the said A.B. and E.F. respectively, have not at any time, heretofore made, done, committed, or executed, or knowingly or willingly per-

Surrender.

**Parcels.
General
words.**

**To the intent
that the
residue of the
existing term
may merge.**

**And that a new
lease may be
granted to the
purchaser.**

**Covenant by
mortgagee and
purchaser
against incum-
brances.**

mitted or suffered, or been party or privy to any act, deed, matter, or thing whereby or by reason whereof the premises hereinbefore expressed to be hereby surrendered, or any part thereof, are, is, can, shall, or may be impeached, charged, affected, or incumbered, in title, estate or otherwise howsoever, or whereby or by reason whereof the said A.B. and E.F. respectively are in anywise prevented from surrendering the same premises, or any part thereof, in manner aforesaid. AND the said C.D. doth hereby for himself, his heirs, executors, and administrators, COVENANT with the said Mayor, Aldermen, and Burgesses, their successors and assigns, that notwithstanding any act by the said C.D. done or suffered to the contrary, they, the said A.B., C.D., and E.F., or some or one of them, now have or hath, in themselves or himself, good right to surrender the said premises in manner hereby done. AND THAT the said C.D., his executors, and administrators, and all persons lawfully claiming through, under, or in trust for him or them, shall and will at all times hereafter, at the request and expense of the said Mayor, Aldermen, and Burgesses, their successors and assigns, execute and do all further acts, deeds, and assurances for better and more perfectly surrendering and assuring the said piece of land, dwelling house, and premises unto the said Mayor, Aldermen, and Burgesses, their successors, and assigns, as by them or their counsel in the law may be reasonably required. IN WITNESS, &c.

Covenant by
mortgagor for
right to
surrender.

And for
further assur-
ance.

226. *Surrender of a Portion of the Premises comprised in a Lease, an Abatement being made in the Rent.* **Precedent 226.**

THIS INDENTURE, made, &c., BETWEEN A.B., of &c. Parties. [lessee], of the one part, and C.D., of &c. [lessor], of the other part. WHEREAS the said A.B., at the request

Recital of agreement for a partial surrender. of the said C.D., has agreed in consideration of the release hereinafter contained, to surrender to him the workshops and premises adjoining the dwelling house expressed by an indenture dated, &c., to be demised to him, with certain other hereditaments therein described, for all the residue now unexpired of the said term of

Witnesseth. years. Now THIS INDENTURE WITNESSETH that in

Consideration. pursuance of the said agreement, and in consideration of

Surrender. the premises, he, the said A.B., doth hereby surrender

Parcels. and yield up unto the said C.D. and his heirs, THE said workshop and premises adjoining the dwelling house demised by the said lease, with the appurtenances thereto belonging. AND all the estate, term, and interest of the said A.B., therein or thereto. To HOLD the same premises

To the intent that the term may merge. TO THE INTENT that the residue of the said term of years in the same may be extinguished in the reversion and inheritance of and in the said workshop and premises. AND THIS INDENTURE ALSO WITNESSETH that in consideration of the premises the said C.D. doth hereby

Release of portion of rent. release and discharge the said A.B., his executors, administrators, and assigns, from the payment of £ parcel of the annual rent reserved by the said lease, and from all claims, demands, and remedies on account of the same. AND DOTH DECLARE AND AGREE

Agreement as to amount of future rent. that the annual rent of £ and no more shall henceforth be payable quarterly on the days therein mentioned in respect of the premises retained by the said

And confirmation of lease subject to preceding variations. A.B. for the residue of the said term. AND IT IS FURTHER AGREED by the said parties hereto that the said lease shall be read and construed as if the annual rent of £ only had been thereby reserved, and not £ , and as if the said workshop and premises had not been included in the said demise, and save as aforesaid the said lease is hereby confirmed in all other respects. IN WITNESS, &c.

227. *Surrender of an Existing Right of Way in Exchange for a New Right of Way* (endorsed in duplicate on the original lease and counterpart). **Precedent 227.**

THIS INDENTURE, made, &c. BETWEEN A.B. and C.D., of Parties.

&c. [*assignees of original term*], of the one part, and the within-named E.F. and G.H. [*lessors*], of the other part.

WHEREAS the piece or parcel of land, cottages, and premises demised by the within-written indenture, with the right of way shown in the plan in the margin thereof, are now vested in the said A.B. and C.D. for the residue of the within-mentioned term of years, and subject to the covenants by the lessee and conditions therein contained. AND WHEREAS, by an indenture bearing even date herewith, and made between the said E.F. and G.H., of the one part, and the said A.B. and C.D., of the other part, the piece of land, with the mes-

Recital of vesting of existing right of way in A.B. and C.D.

suage or tenement now standing thereon, lying on the side of the hereditaments demised by the within-written indenture, together with one half in width of a passage of feet wide on the side thereof so far as the same is coextensive with the said land, has been conveyed unto and to the use of the said A.B. and C.D. AND WHEREAS it was part of the agreement for the said conveyance that the said A.B. and C.D. should surrender and yield up unto the said E.F. and G.H. the said right of way demised by the within-written indenture in consideration of the premises and of such substituted right of way as is hereinafter contained. Now THIS INDENTURE WITNESSETH that in

Of conveyance by E.F. and G.H. of adjoining premises to A.B. and C.D.

Witnesseth. Pursuance of the said agreement in this behalf and in consideration of the premises, they the said A.B. and C.D. do and each of them doth hereby surrender and yield up unto the said E.F. and G.H., their executors, administrators, and assigns ALL the existing right of way

And agreement for surrender of existing way for new way.

Consideration.

Of existing way.

or passage over and across the the road of yards
wide, shown in the plan drawn in the margin of and
referred to and described in the within indenture, TO THE
To the intent **INTENT** that the residue of the said term of years
that the term
in the existing expressed to be granted by the within-written indenture,
way may
merge. so far as concerns the said right of way or passage, may
be merged and absolutely extinguished in the reversion
expectant thereon, AND TO THE FURTHER INTENT that the
And that a new said E.F. and G.H. shall forthwith execute the demise
way may be
demised to A.B. and C.D. hereinafter contained. AND THIS INDENTURE ALSO WIT-
Witnesseth.
Consideration. NESSETH that in consideration of the premises they the
said E.F. and G.H. do and each of them doth hereby
Demise. demise unto the said A.B. and C.D., their executors,
Of new way. administrators, and assigns a right of way or passage
over and across the passage of feet wide granted
by the hereinbefore-recited indenture of even date in
continuance thereof from Street to there
situate, so far as the same is coextensive with the here-
Habendum. ditaments demised by the within-written indenture, TO
HOLD the said premises expressed to be hereby demised
unto the said A.B. and C.D., their executors, adminis-
trators, and assigns as from the day of
18 , for the term of years thence next ensuing
in the place and stead of and in substitution for the said
right of road demised by the within-written indenture,
but at the rent and subject to the covenants by the
lessee and conditions in such indenture reserved and
contained and henceforth to be paid, performed, and
observed. IN WITNESS, &c.

Testimoniums.

I. SIMPLE CONTRACTS.

228. *Common Form.*

**Precedent
228.**

As WITNESS the hands of the said parties the day and year first above written.

Common form.

229. *By a Company.*

**Precedent
229.**

As WITNESS the hands of the said A.B. and of C.D. and E.F., on behalf of the said Company (Limited) the day and year first above written.

By a company.

II. DEEDS.

230. *Common Form.*

**Precedent
230.**

IN WITNESS whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

Common form.

231. *To Lease and Counterpart.*

**Precedent
231.**

IN WITNESS whereof the said A.B. to one part of these presents delivered to the said C.D., and the said C.D. to another part thereof remaining with the said A.B., have hereunto interchangeably set their hands and seals the day and year first above written.

To lease and counterpart.

Precedent**232. *To a Deed Poll.*****232.**

To a deed poll.

IN WITNESS whereof the said A.B. has hereunto set his hand and seal this day of one thousand eight hundred and eighty .

Precedent**233. *To an Indenture Executed by an Attorney.*****233.**

To an indenture executed by an attorney.

IN WITNESS whereof the said A.B. has hereunto set his hand and seal, and by virtue of the power of attorney thereto enabling him (a copy whereof is annexed to these presents), Y.Z. has hereunto set the hand and seal of the said C.D. the day and year first above written. (a)

Precedent**234. *By a Company.*****234.**

By a company.

IN WITNESS whereof the said Company (Limited) have to these presents caused their common seal to be affixed, and the said other parties hereto have hereunto set their respective hands and seals the day and year first above written.

Precedent**235. *By a Corporation.*****235.**

By a corporation.

IN WITNESS whereof the said Mayor, Aldermen, and Burgesses have caused their corporate seal to be hereunto affixed, and the said other parties hereto have hereunto set their respective hands and seals the day and year first above written.

III. WILLS.

Precedent**236. *Common Form.*****236.**

Common form.

IN WITNESS whereof I, the said A.B. [*the testator*], have hereunto set my hand this day of , one thousand eight hundred and eighty .

(a) See note to Precedent 47, *ante*, p. 82.

**237. Where Will written on several sheets
of Paper.**

**Precedent
237.**

IN WITNESS whereof I, the said A.B. [*the testator*], Where will
have to this my last will [*or codicil to my last will, as written on*
the case may be] contained in this and the pre- several sheets
ceding sheets of paper set, &c. [*as in preceding form*]. of paper.

Undertakings.

**238. Undertaking by Creditors to accept a Com-
position, and to execute a Release or an
Assignment of their Debts.**

**Precedent
238.**

WE, THE UNDERSIGNED, creditors of A.B., of &c. [*debtor*], Undertaking
do hereby severally undertake to accept a composition of by creditors to
in the pound upon the amount of our respec- accept a com-
tive debts, and in full discharge thereof. AND upon position, and
such payment being made WE SEVERALLY UNDERTAKE to to execute a
execute to the person making such payment an assign- release or an
ment of our respective debts, or, if required, a complete assignment of
release and discharge to the estate of the said A.B. in their debts.
respect thereof, such assignment or release to be pre-
pared at the expense of the person requiring the same.

Creditors' signatures.	Amount of debt.			Witness.
	£	s.	d.	

**Precedent
239.****239. Undertaking to Stamp a Deed.**To A.B., of &c. [*mortgagor*].Undertaking
to stamp a
deed.

IN CONSIDERATION of your paying to me the sum of £ , principal money and interest due to my client, Mr. C.D., of &c. [*mortgagee*], on mortgage of hereditaments in Road, , I HEREBY UNDERTAKE to get the transfer of such mortgage to him (which has been through inadvertence insufficiently stamped) duly stamped, and to pay any penalty that may be required by the Commissioners of Inland Revenue, and to deliver such transfer so properly stamped to you, free of all expense; or, in default thereof, within weeks from this date I will return you the said £ in exchange for the deeds this day delivered to you.

DATED the day of , 18 .

**Precedent
240.****240. Undertaking to Deposit an Agreement for Tenancy and to execute a Mortgage.**To A.B., of &c. [*promisee*].Undertaking
to deposit an
agreement for
tenancy and
to execute a
mortgage.

IN CONSIDERATION of your lending to me the sum of £ towards enabling me to purchase the goodwill in trade, fixtures, fittings, and effects, in and attached to the licensed public-house and premises known as , situate in Street, into which I am now about to remove (the receipt of which sum I hereby acknowledge), I UNDERTAKE AND AGREE to deposit in your hands as soon as I receive the same an agreement between myself and E.F., of &c. [*landlord*], for my occupation of the said public-house and premises as tenant from year to year. AND I AUTHORISE YOU at any time in my name to apply for and do all acts necessary for obtaining possession of such agreement at my

expense ; AND I HEREBY AUTHORISE AND REQUEST the said E.F. to deliver the said agreement to you without any further authority from me ; AND I AGREE that you shall hold the same agreement, and I hereby charge the premises comprised therein, and the licences, fixtures, fittings, furniture, and effects belonging to me, and now or hereafter to be fixed to, placed upon or in the said public-house and premises, as a security for the repayment to you, on the day of 18 , of the said £ with interest thereon from this date, after the rate of £ per cent. per annum. AND I FURTHER UNDERTAKE AND AGREE that I will, at my own expense upon your request, obtain the consent of the said E.F., and execute and deliver to you an assignment by way of mortgage of my interest in the said public-house and premises, and the said fixtures, fittings, furniture, and effects, such mortgage to contain all such powers of sale and other powers as you shall require to be inserted therein for securing to you the possession of the said premises, and a transfer of the licences as well as the repayment of the said sum of £ and interest as aforesaid, and that in the meantime I will stand and be possessed of the said premises as a trustee for you. AND I AGREE that so long as any money shall be owing to you in respect of the said loan of £ and interest, it shall be lawful for you or your agent at any time hereafter, whether default shall or shall not have been made in payment of the same, or any part thereof, to enter upon the said public-house and premises, and to seize and take possession of the said fixtures, fittings, furniture, and effects without any further consent on my part, and thereupon or at any time afterwards when you shall think fit to sell the same or any part thereof in any manner you think proper without responsibility for any loss occasioned thereby, and to give valid receipts for the purchase moneys thereof and

thereout, after reimbursing yourself the cost and expenses incurred in obtaining and keeping possession, and in effecting such sale, to pay to yourself the said sum of £ and the interest thereon, or so much thereof as shall then remain owing, and pay the surplus (if any) unto me, my executors, administrators, or assigns. AND I UNDERTAKE that during the continuance of this security I will duly pay the rent reserved by, and observe and keep the stipulations in the said agreement of tenancy contained, and on my part to be observed and performed and produce and deliver to you upon request the receipt for each quarter's payment of rent hereafter to accrue due of the said premises (a), and that I will not remove, or take away, or suffer to be removed or taken away, any part of the said fixtures, fittings, furniture, and effects without your consent in writing first obtained.

DATED the day of , 18 .
C.D. [*promissor*].

Precedent 241. *Undertaking by a Borrower to pay a Lender's Costs, if Loan go off. (b)*

To A.B., of &c. [*intended mortgagee*].

Undertaking
by a borrower
to pay a
lender's costs
if loan go off.

HAVING applied to you for the loan of the sum of £ , upon mortgage of the piece of hold land and dwelling houses thereon, situate in Street, at £ per annum interest, I HEREBY UNDERTAKE AND AGREE that in the event of such mortgage going off by reason or in consequence of matters of title or on any other point than your own default, I will pay to you on demand all costs you may have incurred or be liable to pay in connection with

(a) See note (a) to Precedent 86, *ante*, p. 130.

(b) This or a similar undertaking should always be obtained by an intended mortgagee or his solicitor on his behalf: (see *Melbourne v. Cottrell*, 29 L. T. Rep. N.S. 293.)

the negotiation of the said loan, or the investigation of my title to the said premises, and the valuation of the property, or otherwise incidental thereto.

DATED the day of 18 .
C.D. [*intended mortgagor*].

242. Undertaking by Solicitors in a Bankruptcy to a Landlord on his withdrawing Bailiffs. **Precedent 242.**

To A.B., of &c. [*landlord*].

IN CONSIDERATION of your not selling at our request the goods and chattels distrained by you for £ rent claimed to be due to you from C.D. in respect of the occupation by him of your dwelling house and premises called Villa (the said C.D. being now a bankrupt) until after the appointment of trustees in the bankruptcy, WE UNDERTAKE that you shall be at liberty to retain possession of the goods distrained until the said appointment, and so long thereafter as may be necessary to effect a sale, and that your doing so shall not be deemed to be a trespass, nor in any way prejudice your right to sell the said goods at any time notwithstanding that the five days allowed(a) to landlords for keeping possession shall have expired previously to the said sale. AND, in the event of such sale taking place, you are to be at liberty to retain out of the purchase moneys all charges of and incidental to the said sale, and of keeping such possession as aforesaid, together with all other usual and proper charges.

Undertaking by solicitors in a bankruptcy to a landlord on his withdrawing bailiffs.

DATED the day of , 18 .
E.F. and G.H. [*solicitors*].

(a) See 2 Wm. & M., Sess. 1, c. 5, s. 2.

**Precedent
243.**

243. *Undertaking by Members of a Land Society on their Directors allotting the Shares in Anticipation of the Period for Winding-up.*

To the Directors of the Land Society.

Undertaking
by members of
a land society
on their
directors
allotting the
shares in anti-
cipation of the
period for
winding-up.

MEMORANDUM, THAT THE UNDERSIGNED members of the above-named Society having severally paid to the treasurer thereof the sum of £ per share in respect of their shares in the society, and being now desirous of having the shares severally allotted and conveyed to them respectively, or as they shall respectively direct, without waiting for the final closing and balancing of the accounts of the Society (it being considered probable that further moneys may be required beyond the sum of £ in respect of each share to cover expenses of road making, sewerage, allotment, surveyor's fees, law charges, and other expenses), HEREBY SEVERALLY UNDERTAKE AND AGREE, on having their allotments conveyed as aforesaid, to deposit in your hands the sum of £ per share as a fund to be applied in addition to the said sum of £ per share in or towards the several items of expenditure hereinbefore mentioned, and all other expenses (if any) incidental to the final winding-up and closing the affairs of the said Society, and releasing the trustees thereof; and in case the said £ per share shall not be sufficient for the purposes aforesaid, WE HEREBY SEVERALLY AGREE to pay to you or other the directors for the time being of the said Society such further contribution or equal sum or sums of money per share on the shares now held by us respectively as may be required to meet the deficiency, and until payment thereof the same, when ascertained, shall be and continue an equitable charge upon the land conveyed to the member or members making default, and all persons claiming under him or them; AND in case any surplus shall remain in your hands on a final adjust-

ment and closing of accounts, such surplus is to be returned to us respectively in the proportions to which we are respectively entitled to the same; AND WE HEREBY SEVERALLY REQUEST and direct you and the survivors or survivor of you, or his heirs, or your or his assigns, to convey to us the several allotments of land to which we are respectively entitled according to the ballot which has already taken place, and subject to such restrictions affecting the land and mode of building on and user thereof, as heretofore adopted at a General Meeting of the said Society, it being hereby declared that the said sum of £ per share already paid is the full and true consideration money, to be inserted in the conveyance as the purchase money for each allotment of land without reference to the said expenses or other outgoings.

Signatures of members.	No. of shares or allotments.	Amount paid as deposit under this undertaking.			Witness.
		£	s.	d.	

244. Undertaking by a Mortgagee on a Mortgagor suffering Judgment in Ejectment as Collateral Security. **Precedent 244.**

To A.B., of &c. [*mortgagor*].

IN CONSIDERATION of your suffering judgment to go by default in an action of ejectment to be commenced by me, the undersigned C.D., against you in the Queen's Bench Division of the High Court of Justice, I HEREBY UNDERTAKE that I will not issue any writ of possession,

Undertaking by a mortgagee on a mortgagor suffering judgment in ejectment as collateral security.

or other execution on the said judgment, unless and until default shall be made by you in payment to me of the principal moneys and interest for the time being, owing on the security of an indenture of mortgage, dated, &c., and made between you the said A.B. of the one part, and myself of the other part, pursuant to the terms of the said indenture.

DATED the _____ day of _____, 18 ____
C.D. [*mortgagee*].

Precedent 245. *Undertaking by a Mortgagor on a Second Mortgagee discharging a Building Society's First Mortgage.*

To A.B., of &c. [*second mortgagee*].

Undertaking by a mortgagor on a second mortgagee discharging a building society's first mortgage.

IN CONSIDERATION of your advancing and paying off for me at my request the sum of £ _____ to the trustees of the _____ Permanent Benefit Building Society, being the amount now due to the said Society in respect of _____ shares held by me therein, and in full satisfaction and discharge of all subscription moneys, fines, and payments remaining due and secured by an indenture of mortgage dated, &c., and made between myself of the one part, and the then trustees of the said Society of the other part [and, *if so*, a memorandum of further charge dated, &c., endorsed on the foregoing indenture]. Now I HEREBY AUTHORISE the said trustees to endorse the usual statutory receipt for the said sum on the said mortgage vesting the legal estate in the said mortgage property in you.(a) AND I direct the said trustees to

(a) It is not necessary that the receipt should specify the person by whom the money has been paid. The person entitled to the reconveyance is the person who is empowered to call upon the holder of the legal estate and to demand a reconveyance from him of such estate: (Barry's Law of Building Societies, 114. And see *Prosser v. Rice*, 28 Beav. 68, and *Pease v. Jackson*, L. Rep. 1 Ch. 576.)

deliver to you all title deeds and writings in their custody or control, belonging to me, and I request you to hold the same, and the property therein comprised, as security for the repayment of the said sum of £ , as well as for the moneys I am already indebted to you by a mortgage, dated, &c., of the same property. AND I UNDERTAKE AND AGREE that the power of sale and other powers contained in the last-mentioned mortgage shall be available to you, as well for the money thereby secured as for the said sum of £ now advanced, and the interest thereon. AND I AGREE on request to execute and deliver to you at my own expense any further mortgage or security you may require for securing the said sum of £ and interest from this date at the rate of £ per cent. per annum.

DATED the day of , 18 .
C.D. [*mortgagor*].

Wills.(a)

246. *Will of Real and Personal Estate. All to Testator's Wife absolutely (concise form).* **Precedent 246.**

I. A.B., of &c., REVOKE every testamentary writing by me heretofore made, and DECLARE this to be my last will. I DEVISE AND BEQUEATH all the real and personal estate to which I shall be entitled at the time of my death, or which I shall then have any power to appoint or dispose of by will, unto my dear wife B.B.

Devise and bequest of all to wife.

(a) For the statutory enactments affecting wills, see 12 Car. 2, c. 24; 1 Vict. c. 26; 15 & 16 Vict. c. 24; 24 & 25 Vict. c. 114; and 24 & 25 Vict. c. 121.

absolutely, subject as to trust and mortgage estates to the equities affecting the same respectively. AND I APPOINT my said wife executrix of this my will. IN WITNESS, &c.(a)

Precedent 247. *Will of Personal Estate only. Pecuniary Legacies. Residue to Grandchildren on Condition that none of them Marry into a Certain Family with Gift over.*

THIS IS THE LAST WILL of me, A.B., of &c. I REVOKE every testamentary instrument by me heretofore made, AND I APPOINT C.D., and E.F., of &c., trustees and executors of this my will. I DIRECT the payment of all my just debts, funeral, and testamentary expenses. I BEQUEATH to my niece G.H. the sum of £ , and such articles of my household furniture as my daughter M. shall think proper to allow her to select. I BEQUEATH to my son B.B. the sum of £ , as an acknowledgment for the presents and kindness I have received from him. I DIRECT that in case my grandson C.B., son of the said B.B., shall be living at my death, my trustees shall set apart and invest on any security they think proper, the sum of £ , AND shall accumulate the same and pay the said legacy and accumulations to the said B.B. at any time after my said grandson shall attain the age of years, to be applied by the said B.B. in or towards finishing the education of my said grandson or otherwise for his benefit; but if my said grandson shall die before attaining the age of years, the said legacy and accumulations shall be IN TRUST for all the children, or any the child of my son H.B., living at the time of the death of my said grandson, and if more than

(a) For forms of testimonium, see Precedents 236 and 237, *ante*, pp. 280, 281; and of attestation, Precedents 57 to 62, *ante*, pp. 84—87.

one in equal shares. I BEQUEATH all the residue of my personal estate and property unto the said C.D. and E.F. in trust for all the children, or any the child of my said daughter M., who shall be of or shall attain the age of twenty-one years, and who shall not previously to attaining that age have married directly into the blood of the Y. family, and if more than one in equal shares. AND I DECLARE that if any child of my said daughter shall marry directly into the blood of the Y. family contrary to my will, such child shall thereupon lose all share and interest under my will, and the share of such child shall go to the child or children of my said daughter who shall not so marry, and if more than one in equal shares; but if all the children of my said daughter shall die before attaining the said age, or shall have all married directly into the blood of the Y. family contrary to my will, then, and in either of such cases, the said trustees shall be possessed of the said residue of my personal estate and property IN TRUST for such of the children of my said son H.B. as shall be living at the time when the preceding trust in favour of the children of my daughter M. shall fail, and, if more than one, in equal shares. IN WITNESS, &c.

General bequest of residue for grandchildren who shall attain twenty-one and shall not previously have married into a certain family.

Gift over on breach of condition.

248. *Will of Real and Personal Estate. Unconverted to Daughter at twenty-one. If she die before attaining that Age for Sale and Division in specified Shares among a Cousin, a Nephew, and two Brothers.*

Precedent 248.

THIS IS THE LAST WILL of me, A.B., of &c. I REVOKE every testamentary instrument by me heretofore made, AND I APPOINT C.D. and E.F., of &c., trustees and executors of this my will. I DIRECT the payment of all my

Appointment of trustees and executors.

General devise and bequest. just debts, funeral, and testamentary expenses. I DEVISE AND BEQUEATH unto the said C.D. and E.F. all the real and personal estate and property of or to which I shall at my death be seised, possessed, or entitled, or which I shall then have any power to appoint or dispose of by will. To hold the same UNTO and to the use of my said trustees, their heirs, executors, administrators, and assigns, according to the tenures and legal natures of the same respectively, IN TRUST for my daughter B.B. if she shall be or shall attain the age of twenty-one years, but if she shall die under that age then UPON TRUST that my said trustees or the survivor of them, his heirs, executors, or administrators, shall sell the said real and personal estate and property, either together or in parcels, and either by public auction or private contract, and shall be possessed of the moneys arising therefrom,

In trust for daughter if she shall attain twenty-one. In default in trust for sale. AS TO £ part thereof IN TRUST for my cousin E.F., AS TO £ further part thereof IN TRUST for my nephew G.H., and AS TO all the residue of the said trust money IN TRUST for my brothers I.B. and K.B. in equal shares. I DEVISE AND BEQUEATH all estates vested in me upon trust or mortgage unto the said C.D. and E.F., their heirs and assigns, upon the trusts, and subject to the equity of redemption subsisting therein respectively.

Proceeds to be divided amongst a cousin, a nephew, and two brothers. AND I HEREBY DECLARE that the power of appointing a new trustee or trustees of this my will shall be exercisable by the surviving or continuing trustee for the time being, or the executors or executor, administrators or administrator, of the last surviving or continuing trustee, or by the last retiring trustees or trustee, and upon any such appointment the number of trustees may be augmented or reduced. IN WITNESS, &c.

Devise of trust and mortgaged estates.

Power to appoint new trustees.

249. *Will of Real and Personal Estate. Furniture and Household Effects to two Sisters until Marriage or Death of one and then entirety to the other. Pecuniary Legacy to a Niece at Twenty-one or Marriage. Residue for Sale and Investment. Income to Sisters until Marriage of one, and then entirety to the other. If both Sisters marry Income to be divided into Three Parts and paid to them and Niece during Life. Ultimate Division of Capital and Income into Shares among their Issue, and in Default to Brothers and their Issue.* **Precedent 249.**

THIS IS THE LAST WILL of me, A.B., of &c. I BEQUEATH Bequest of furniture and household effects to sisters. all my plate, furniture, and other household effects to my sisters B.B., and C.B., until one of them shall marry or die, and after the marriage or death of one of them my said sisters, I give the whole of such plate, furniture, and other household effects to the other of them for her absolute use. I DEVISE AND BEQUEATH one share of the gross value of all my estate at my decease, except Bequest to niece. the said plate, furniture, and household effects, without making any deductions for debts or expenses of any kind, to my niece G.H., on her attaining the age of twenty-one years, or marrying before such age; but, in case of her death before the age of twenty-one years, and unmarried, the said one share shall fall into the residue of my estate. I DEVISE AND BEQUEATH all the residue of my General devise and bequest of residue. estate, real and personal, to my said sisters B.B. and C.B., their heirs, executors, administrators, and assigns, UPON TRUST that the said B.B. and C.B., or the survivor of In trust for sale. them, or the heirs, executors, or administrators of such survivor, shall sell the same either together or in parcels, and either by public auction or private contract, and

Trusts of proceeds.	shall out of the moneys arising from such sale or sales, and the money of which I shall be possessed at my
To pay funeral expenses, debts, and legacy, and invest residue.	death, pay my funeral and testamentary expenses and debts, and the legacy hereinbefore bequeathed to the said G.H. on her attaining the age of twenty-one years, or marrying whichever shall first happen, and shall invest the residue of the said moneys in the names or name of the said trustees or trustee for the time being of this my will in any of the public stocks or funds, or Government securities, of the United Kingdom, or upon freehold or leasehold securities in England or Wales, or upon the shares or securities of any Company or Corporation, whether commercial, municipal, or otherwise, carrying on business, or constituted for any purpose in the United
Power to vary investments.	Kingdom. AND I DECLARE that the said trustees or trustee may vary the said stocks, funds, shares, and securities at their or her discretion, and shall pay the income of the said trust premises unto the said B.B. and C.B., in equal shares so long as both remain unmarried, and after the marriage of either of them, shall pay the whole of the income of the said trust premises unto the other of them during her life, or until she shall marry, and in case of the marriage of the second of my said sisters, then after her marriage the said trustees or trustee shall pay the income of one-third part of the said trust premises unto the said B.B. during her life, and the income of another third part of the said trust premises unto the said C.B. during her life, and the income of the remaining third part unto the said G.H. during her life.
Trusts of income for sisters.	AND, subject to the trusts hereinbefore expressed and contained, I BEQUEATH one-third part of the said trust investments (hereinbefore called "the said trust premises") unto all the children or any the child of the said B.B. who shall attain the age of twenty-one years, and if more than one in equal shares; AND subject to the trusts hereinbefore expressed and contained, I BEQUEATH another
Subject thereto to their children who shall attain twenty-one in thirds.	

third part of the said trust investments unto all the children or any the child of the said C.B., who shall attain the age of twenty-one years, and if more than one in equal shares; AND subject to the trusts hereinbefore expressed and declared, I BEQUEATH the remaining third part of the said trust investments unto all the children or any the child of the said G.H. who shall attain the age of twenty-one years, and if more than one in equal shares; AND if any of them the said B.B., C.B., and G.H., shall die without issue, or shall die leaving issue who shall not attain the age of twenty-one years, then I BEQUEATH the share or shares of the said trust investments, which otherwise would have gone to her or their children or child under the trusts aforesaid, unto my brothers E.B. and F.B. in equal shares, or in case of the death of either of them without issue at the time of the death of any of them the said B.B., C.B., and G.H. without issue, then the whole of such share or shares respectively shall go to the other of my said brothers, or if he shall then be dead, to his children in equal shares, and if he shall have but one child, then to such child absolutely. PROVIDED ALWAYS, that the said trustees or trustee may raise any part not exceeding one-half of the then expectant presumptive or vested share of any child under the trusts hereinbefore declared, and apply the same for his or her advancement or benefit. I DECLARE that the said trustees or trustee may permit my personal estate or any part thereof to remain in its actual state of investment at the time of my death for such period of time as they or she shall think fit. AND I DECLARE that the said trustees or trustee shall apply the whole or such part as they or she shall think proper of the annual income of the share to which any child shall for the time being be entitled in expectancy under the trusts hereinbefore declared for or towards the maintenance or education of such child, either directly or to his or her guardian

And in default
to brothers.

Advancement
clause.

Power to
permit per-
sonal estate to
remain on the
investments
subsisting at
the testator's
death.
Maintenance
clause.

or guardians without seeing to the application, or being accountable for the misapplication or nonapplication thereof, and shall accumulate any residue by investing it in any of the modes hereinbefore mentioned, with power for the said trustees or trustee to resort to the accumulations of any preceding year or years, and apply such accumulations for or towards the maintenance or education of the child for the time being presumptively entitled to the same respectively. [*Devise of trust and mortgage estates to B.B. and C.B., and power to appoint new trustees as in the preceding Precedent.*] AND I APPOINT the said B.B. and C.B. executrixes of this my will. IN WITNESS, &c.

Appointment
of executors.

Precedent 250. *Will of a Married Woman under a Power contained in her Father's Will, appointing Property in Favour of her Children and Grandchildren at Twenty-one or Marriage. In Default to Husband.*

Recital of
will creating
power.

THIS IS THE LAST WILL of me, A.B., wife of C.B. of &c. WHEREAS under the will of my late father, Y.Z., of &c., deceased, I am entitled to a share of the moneys to arise from the sale and collection of his real and personal estate and the accumulations thereof, and such share stands limited in trust as to the income thereof for myself for my separate use for life, and after my death in trust as to the capital and income for all or any one or more of my children and issue in such proportions and subject to such conditions and limitations over in favour of any other or others of the said children and issue, and with such regulations for maintenance, education, and advancement, and to be paid or transferred at such age or ages, either absolutely or upon contingencies, as I, whether covert or sole, should at any time, or from time

to time, by deed or by will or codicil, direct or appoint.

- Now, in exercise and execution of all and every power and authority, powers and authorities whatsoever to me given or enabling me in this behalf, whether special, general, or otherwise, I APPOINT, BEQUEATH, AND DIRECT Appointment. that all and every the said trust moneys directed to be held in trust for me and my children and issue as in my said father's will mentioned, and over which I have any power of appointment, shall from and after my decease remain and be, and the trustees or trustee for the time being of my said father's will shall stand possessed thereof and of the annual income thereof IN TRUST for all In trust for children and grandchildren. my children or any my child, and for all the children or any the child then living of any children or child of mine as shall die before obtaining a vested interest under the trusts of my said father's will, who being males or a male shall be of or shall attain the age of twenty-one years, or being females or a female shall be of or shall attain that age or marry, and if more than one in equal shares, but so that any grandchildren of mine shall take only the share which their deceased parent would have taken if living. AND I DIRECT the trustees or trustee for Maintenance clause. the time being of my said father's will to pay the annual income of the share to which any minor shall after my death for the time being be presumptively entitled in expectancy under the trusts contained in my said father's will to my said husband, C.B., or other the guardian or guardians of such minor, to be applied by him or them in or towards the maintenance or education of such minor, without requiring any account of the expenditure thereof. AND I ALSO DIRECT such trustees or trustee to Advancement clause. raise any part or parts of the then expectant presumptive or vested share of any minor under the same trusts, and to pay the same to my said husband or other the guardian or guardians of such minor, to be applied by him or them for the advancement or benefit of such minor, without

Receipts of
guardians to
be good dis-
charges.

requiring any account of the expenditure thereof. AND I DECLARE that the receipts of my said husband or of such guardian or guardians for any money paid or transferred to him or them by virtue hereof shall effectually discharge the person or persons paying or transferring the same from all liability to see to the application thereof. BUT IN CASE there shall be no child or children of mine living at my death, or any issue then living of any child or children of mine previously deceased as shall live to obtain a vested interest under the trusts of my said father's will, then I APPOINT, GIVE, AND BEQUEATH to my said husband C.B. the whole of the share to which I am entitled under my said father's will, and the unapplied income (if any) thereof for his own use absolutely. AND I APPOINT my said husband executor of this my will. IN WITNESS, &c.

Appointment
in favour of
husband if pre-
ceding trusts
fail of taking
effect.

Appointment
of executor.

**Precedent
251.**

251. Will of Real and Personal Estate. Furniture to Wife. Trusts for Sale and Investment. Income to Wife for Life, and afterwards Capital and Income to Children equally. Ultimate Trust for Sisters and Brothers.

Appointment
of trustees and
executors.
Bequest of
furniture and
household
effects to wife.

THIS IS THE LAST WILL of me, A.B., of &c. I REVOKE every testamentary instrument by me heretofore made, AND I APPOINT C.D. and E.F., of &c., to be trustees and executors of this my will. I BEQUEATH all my household furniture, plate, jewellery, linen, china, glass, pictures, engravings, personal and household ornaments, house-keeping stores, wines, and provisions which shall be in and about my dwelling house at the time of my death, to my dear wife C.B., for her own use, and subject thereto

General devise I DEVISE AND BEQUEATH unto my said trustees hereinbe-

fore named all the real and personal estate and property, ^{and bequest of residue.}
of or to which I shall at my decease be seised, possessed,
or entitled, or which I shall then have any power to
appoint or dispose of by will, to hold the same UNTO and
to the use of my said trustees, their heirs, executors,
administrators, and assigns, according to the tenures and
legal natures of the same respectively, upon the trusts
hereinafter expressed concerning the same, that is to say,
UPON TRUST to sell the same either together or in parcels, ^{In trust for sale.}
and either by public auction or private contract, with
power to make such stipulations and conditions con-
cerning any sale as such trustees or trustee shall think
reasonable, and out of the moneys arising from such sale ^{Trusts of proceeds.}
or sales, and the moneys of which I shall be possessed at
my death, to pay my funeral and testamentary expenses
and debts. AND I DIRECT the trustees or trustee for the <sup>To pay funeral ex-
penses and
debts and in-
vest residue.</sup>
time being of this my will to invest all the residue and
remainder of my estate in their or his names or name in,
&c. [*continue trust for investment and power to vary*
securities as in Precedent 249, ante, p. 294]. AND shall <sup>Trusts of in-
come for wife
for life.</sup>
pay the income of the said trust investments unto my
said wife C.B. during her life and after her death as to
the principal of the said trust premises, with the future
income thereof, IN TRUST for all my children or any my <sup>Afterwards
for children
at twenty-one
or marriage.</sup>
child who, being sons or a son, shall be of or shall attain
the age of twenty-one years, or, being daughters or a
daughter, shall be of or shall attain that age, or marry,
and if more than one in equal shares as tenants in
common. BUT IN CASE there shall be no child or
children of mine living at my death, or any issue then
living of any child or children of mine then dead, I
DIRECT that the said trustees or trustee shall be possessed
of the said trust investment, and the annual income
thereof, or such part thereof as shall not have become
vested or been applied under any of the trusts herein
contained, IN TRUST for such of my three sisters, D.B.,

In default for
unmarried
sisters.

Ultimate
trusts for
brothers and
sisters.

Advancement
clause.

E.B., and F.B., as shall be living at the time when the aforesaid trust in favour of my children and their issue shall fail or become incapable of taking effect, and if more than one of my said sisters shall be then living and unmarried in equal shares. AND if all my said three sisters shall then be or have been married, IN TRUST for and to be equally divided between and amongst all my brothers and sisters then living, and the issue then living of any brother or sister of mine then dead, such issue nevertheless, if more than one, taking equally between them the share to which the deceased parent of such issue would have been entitled if living. AND I DECLARE that the said trustees or trustee may after the death of my said wife raise any part not exceeding one-half of the then expectant or presumptive share of any minor under the trusts hereinbefore declared for his or her advancement or benefit. AND I DECLARE that the said trustees or trustee shall after the death of my said wife apply, &c. [*continue maintenance and accumulation clauses using the the word "minor" in lieu of "child," as in Precedent 249, and add a devise of trust and mortgage estates, and power to appoint new trustees, as in Precedent 248 ante, p. 292*]. IN WITNESS, &c.

Precedent 252. *Will of Widow of Real and Personal Estate. Trust for Sale and immediate Division of Proceeds after Payment of a pecuniary Legacy and Debts.*

General devise
and bequest
in trust for
sale, &c.

THIS IS THE LAST WILL of me, A.B., of &c. I REVOKE every testamentary writing by me heretofore made, and I GIVE, DEVISE, AND BEQUEATH unto C.D., of &c., all, &c., [*continue trust for sale down to payment of debts as in*

preceding Precedent, then proceed], and the expenses attending the execution of this my will, and pay to E.F., at present residing with the said C.D., the legacy or sum of £ , and to be possessed of the residue of the said trust moneys, AS TO four-ninths thereof IN TRUST for G.H., of &c., if living at the time of my decease, or, if then dead, for all her children, or any her child, who, being sons or a son, shall be of or shall attain the age of twenty-one years, or, being daughters or a daughter, shall be of or shall attain that age, or marry, and, if more than one, in equal shares as tenants in common absolutely, and AS TO three equal ninth parts of the residue of the said trust moneys, IN TRUST for J.K., of &c., if living, &c. [*as in preceding limitation*], and AS TO the remaining two equal ninth parts of the said residuary, trust moneys IN TRUST for L.M., of &c., if living at the time of my decease, or, if then dead, unto her daughter N.M. AND I DIRECT my said trustee or trustees to invest any money which shall be in his or their hands and not immediately payable to any person or persons in, &c. [*continue, according to the references in the preceding Precedent, trust for investment and power to vary securities; advancement, maintenance, and accumulation clauses, using the word "minor" in lieu of "child;" devise of trust and mortgage estates, and appointment of C.D. as executor*]. IN WITNESS, &c.

Pecuniary legacy.
Residue for immediate division among specified persons.

Power to invest money not immediately payable.

253. *Will of Real and Personal Estate in Favour of Natural Children. Ultimate Trust for Executors.* **Precedent 253.**

THIS IS THE LAST WILL of me, A.B., of &c. I REVOKE every testamentary instrument by me heretofore made,

<p>Appointment of trustees, executors, and guardians.</p> <p>General devise and bequest.</p> <p>Trust of proceeds.</p> <p>For maintenance of natural children until twenty-one and afterwards for division between them. Ultimate trust for executors.</p> <p>Direction as to religious education of children.</p>	<p>AND I APPOINT C.D. and E.F., of &c., to be executors and trustees of this my will and guardians of my illegitimate infant children hereinafter mentioned, during their respective minorities. I DEVISE AND BEQUEATH unto the said C.D. and E.F. all the real and personal estate, and property of or to which I shall be seised, possessed, or entitled at the time of my decease, or which I shall then have any power to appoint or dispose of by will, to hold the same UNTO and to the use of the said C.D. and E.F., their heirs, executors, administrators, and assigns, according to the tenures and legal natures thereof, UPON TRUST, to pay and apply the net proceeds thereof for or towards the maintenance, education, and preferment of my two illegitimate children, known by the names of B.B. and C.B., until they shall respectively attain the age of twenty-one years. AND upon the younger of the said children attaining the age of twenty-one years, to divide in equal shares between them, or pay to the survivor of them, any balance that may not have been applied in the maintenance, education, and advancement, of the said children respectively. BUT IN CASE both the said children shall die under the age of twenty-one years, then I DIRECT that such part of my said estate and effects as shall not have been previously applied in the maintenance, education, and advancement of my said children, shall be divided equally between the said C.D. and E.F., and their respective executors, administrators and assigns; and I give and bequeath the same to them accordingly. I DIRECT that my said children shall be educated in the Protestant faith. IN WITNESS, &c.</p>
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254. *Will of Widow of Real and Personal Estate. Trust for Sale and Investment. Income to be divided between two Daughters for Separate Use for Life, and afterwards Capital to be divided between their Children. If one Daughter die in the Lifetime of the other without Issue, whole Income to Survivor and Capital to Survivor's Children. If both die without Issue, to Next of Kin. Provision for Payment or Deduction of Debt due from one Daughter's Husband to Testatrix.* **Precedent 254.**

THIS IS THE LAST WILL of me, A.B., of &c. I REVOKE every testamentary writing by me heretofore made, AND I GIVE, DEVISE, AND BEQUEATH unto C.D., of &c., all &c. [continue trust for sale down to payment of debts as in Precedent 251, ante, p. 299, then proceed], and shall invest the residue of the said moneys in the name or names of the trustee or trustees, for the time being of this my will in or upon any securities he or they may deem advisable, whether authorised by statute or not, with power from time to time to alter, vary, or transfer all or any of such investments for others of a like nature, or to continue any investments subsisting at the time of my death, and shall pay one moiety or equal half part of the income of the said trust premises unto my daughter E.F., the wife of F.F., of &c., during her life; and shall pay the other moiety, or equal half part thereof, unto my daughter G.B., during her life. AND I DECLARE that the respective shares of my said daughters shall be for their respective separate use, without power of anticipation, and their receipts alone shall be sufficient discharges for the same respectively. AND subject to the trusts hereinbefore expressed and declared, I GIVE AND

General devise
and bequest.

Trusts of proceeds.
One moiety of income for one daughter, remaining moiety for other daughter.

Subject to preceding trust capital

to each of
their children
with gift over.

Ultimate
trust for
testator's
next of kin.

Provision as
to debt owing
to testator
from son-in-
law.

Declaration
as to payment
of shares.

BEQUEATH one moiety, or equal half part of the said trust investments unto all the children, or any the child, of the said E.F., and if more than one in equal shares. AND subject to the trusts hereinbefore expressed and declared, I GIVE AND BEQUEATH the other moiety, or equal half part, of the said trust investments unto all the children, or any the child, of the said G.H., and if more than one in equal shares. BUT IN CASE of the death of either of my said daughters without issue, then I HEREBY WILL AND DECLARE that the moiety of such daughter so dying, and the accumulations and income thereof, shall be held IN TRUST for the other of them my said daughters during her life, and after her death for any her children or child in like manner as the original moiety is hereinbefore given to her and them. BUT IN CASE both my said daughters shall die without issue, then I GIVE AND BEQUEATH the whole of the said trust investments and the accumulations and income thereof unto my next of kin according to the statutes for the distribution of the effects of intestates. AND WHEREAS the said F.F. is indebted to me in £ . . . for money lent by me to him. NOW I DECLARE that if such loan shall not be repaid in my lifetime, the same shall be deemed an advance to the said E.F. on account of her share, but if the said debt, or any part thereof, shall be repaid in my lifetime, then I direct that the said F.F. shall have so much more added to her share as will make up her share equal to that of her said sister. AND I DECLARE that the share to which any child of my said daughters shall be entitled under the trust aforesaid shall be paid (if a son) on his attaining twenty-one, or (if a daughter) at that age or marriage [*add advancement, maintenance, and accumulation clauses; devise of trust and mortgage estates; and appointment of C.D. as executor*]. IN WITNESS, &c.

255. *Will of Widow exercising a Power contained in her Marriage Settlement appointing Property comprised therein, and devising other Property to Trustees. Trust for Sale. Bequest of numerous pecuniary Legacies with Provision against Lapse. Residue to Brother.* **Precedent 255.**

THIS IS THE LAST WILL of me, A.B., of &c. WHEREAS by an indenture dated, &c., and made between myself (then A.C., spinster) of the first part, B.B. of the second part, and W.X. and Y.Z. (trustees) of the third part (being a settlement made in consideration of the marriage shortly afterwards solemnised between myself and the said B.B.), certain hereditaments and premises were granted and conveyed unto the said W.X. and Y.Z., their heirs and assigns upon trust after the solemnisation of my marriage with the said B.B., that they, or the survivor of them, or the executors or administrators of such survivor, should, with my consent, during my life, and after my decease at the sole discretion of the said trustees make sale of the said hereditaments and premises in manner therein mentioned, and should stand possessed of the moneys to arise from such sale (after payment thereof of all expenses) upon such, and the same trusts, and subject to such, and the same powers and in such manner in all respects, as were or should be declared of and concerning a certain sum of £ in and by a certain indenture, bearing even date with the now reciting indenture. AND WHEREAS by another indenture, also dated, &c., and made between M.N. of the first part, the said W.X. and Y.Z. of the second part, myself of the third part, and the said B.B., of the fourth part, it was thereby agreed and declared between and by all the said parties thereto, that the said W.X. and Y.Z., their executors, administrators, and assigns, should stand

Recital of conveyance upon the trusts of a settlement of even date.

Of settlement creating power.

And of testator's desire to exercise power.

Appointment.

possessed of the said sum of £ , upon trust that they or the survivor of them, and the executors or administrators of such survivor, should, as soon as conveniently might be after the execution of those presents, lay out and invest the same in their or his names or name, in or upon the securities therein authorised, in trust as to the income thereof for myself, for my separate use for life, without power of anticipation, and after my death in trust as to both capital and income as I should, by my last will and testament, appoint. AND WHEREAS I am desirous or exercising the power given or reserved to me by the lastly-recited indenture, and of devising and bequeathing all my property, both real and personal, in manner hereinafter mentioned. Now by virtue and in execution of all and every power and authority, powers and authorities, whatsoever to me given or enabling me in this behalf, whether special, general, or otherwise, I HEREBY APPOINT the said hereditaments and premises comprised in the hereinbefore firstly-recited indenture, if remaining unsold at the time of my decease, or, if then sold, the moneys which shall have arisen from the sale thereof; and the investments of the same, and the accumulations and income, or so much thereof respectively as shall not have been applied under any of the trusts or powers in the hereinbefore secondly-recited indenture contained. AND also all and singular the said sum of £ , and the stocks, funds, and securities for the same, and the dividends and annual produce thereof TO THE USE of the said W.X. and Y.Z., their heirs, executors, and administrators, UPON THE TRUSTS and subject to the powers hereinafter expressed concerning the same. I GIVE, DEVISE, AND BEQUEATH all the real and personal estate and property of or to which I shall at my decease be seised, possessed, or entitled, or which I shall then have any power to appoint or dispose of by will, irrespective of and in addition to

the said trust premises, subject to the trusts of the hereinbefore recited indentures of, &c., respectively UNTO and to the use of the said W.X. and Y.Z., their heirs, executors, administrators, and assigns, according to the tenures and legal natures of the same respectively, upon the trusts hereinafter expressed concerning the same; that is to say, UPON TRUST that the said W.X. and Y.Z., or the survivor of them, or the heirs, executors, or administrators of such survivor, shall sell the same, and the property, stocks, funds, and securities for the time being, subject to or held under the said hereinbefore recited indentures of, &c., or either of such indentures, together or in parcels, and either by public auction or by private contract, with power to make such stipulations and conditions concerning any sale as such trustees or trustee shall think reasonable, and out of the moneys arising therefrom, and the moneys of which I shall be possessed at my decease, and the unapplied dividends, interest and income of the said trust premises and the accumulations thereof, to pay my funeral and testamentary expenses and debts, and the following pecuniary legacies or sums of money to the persons hereinafter named, that is to say, to the said W.X. and Y.Z.

£ each, as an acknowledgment for the trouble of executing the trusts of this my will; to my brother, B.C., of &c., £ ; to my sister, C.C., of &c., £ ; to my nephews, M.N., of &c., and N.N., of &c., £ each. AND I DECLARE that if the said B.C., C.C., M.N., and N.N., or any of them, shall die before me, leaving issue, the legacy or legacies of the person or persons so dying shall not lapse, but as to each of the said legatees so dying, I give his, her, or their respective legacy or legacies unto his, her, or their respective issue, to be paid to and divided between such issue, if more than one, in equal shares, as tenants in common absolutely. I BEQUEATH to the children

In trust for
sale.

Trusts of
proceeds.

To pay
funeral ex-
penses, debts,
and certain
pecuniary
legacies.

of my said brother B.C. £ each, if living at the time of my decease, or if any of them shall be then dead, the legacy or legacies of the child or children so dying shall be paid to and divided between the survivors and survivor of them in equal shares as tenants in common absolutely. I BEQUEATH to my stepdaughter £ , if living at the time of my decease, or if then dead to her nephew P.P., of &c. AND I BEQUEATH to Q.Q. £ . THE whole of the said legacies to be respectively paid free from legacy duty(a), and the legacy of any female to be enjoyed and disposed of by her as separate property free from marital control, and her receipt alone shall be a sufficient discharge to my said trustees or trustee for the same. AND, subject to the trusts aforesaid, I GIVE AND BEQUEATH all the residue of my estate and property (including in such residue any of the said legacies which may fail of effect by lapse or otherwise) unto my said brother B.C., his executors, administrators, and assigns absolutely. [*Devise of trust and mortgage estates and power to appoint new trustees supra.*] AND I APPOINT the said W.X. and Y.Z. executors of this my will, hereby REVOKING every testamentary writing by me at any time heretofore made. IN WITNESS, &c.

Legacies to be paid free from duty and in the case of females as separate property.

General devise and bequest of residue.

Appointment of executors.

(a) As the Legacy Duty Act (36 Geo. 3, c. 52) has not subjected to legacy duty money which is to be appropriated in payment of the duty on legacies, a saving of duty is effected by directing it to be paid out of the general estate : (Hayes & Jarm. 211.)

256. *Will of Real and Personal Estate. Provisions for carrying on Business, and for Sale to Sons. Annuity or Income (in the Event of Sale) to Wife. Ultimate Division of Capital and Income into Shares among Children and Grandchildren. Full Powers of Investment, and other usual Trustee Clauses.* **Precedent 256.**

THIS IS THE LAST WILL of me, A.B., of &c. I REVOKE every testamentary instrument by me heretofore made, AND I APPOINT my dear wife B.B. and C.D., &c., to be executrix and executor and trustees of this my will. I DEVISE AND BEQUEATH unto the said B.B. and C.D. all the real, leasehold, and personal estate and property of or to which I shall be seised or possessed at my decease, or of which I shall then have any power to appoint or dispose of by will, to hold the same UNTO and to the use of the said B.B. and C.D., their heirs, executors, administrators, and assigns, according to the tenures and legal natures of the same respectively, upon the trusts and for the purposes hereinafter expressed of and concerning the same respectively, that is to say, AS TO all my wines, liquors, fuel, housekeeping provisions, and other consumable stores, which shall at my decease be in and about my dwelling house, and also my wearing apparel, IN TRUST for my dear wife, for her own absolute benefit; AND AS TO my household goods and furniture, pictures, plate, linen, china, glass, and other articles of domestic use, furniture, or ornament, which shall be in or about my dwelling house at my decease, IN TRUST to permit my wife to have the possession and use thereof during her life; AND upon her decease I DIRECT that the same shall be sold under the general trust or direction for sale hereinafter contained, and the moneys to be produced thereby shall be held and be upon the same

Appointment of trustees and executors.
General devise and bequest.
Wines and consumables to wife absolutely.
Furniture and household effects to wife for life.

Power to
carry on tes-
tator's busi-
ness till
youngest son
attains
twenty-one.

trusts that are hereinafter expressed, concerning the moneys to arise under such general trust or direction for sale. AND I EMPOWER the trustees and trustee for the time being of this my will, if they, she, or he, shall think proper to do so, to carry on the business of a now carried on by me until there shall be no son of mine living under the age of twenty-one years. But I expressly empower such trustees or trustee for the time being or (when more than two), the major part of them in their, her, or his absolute discretion, to discontinue to carry on such business at any time after my decease, whether any son or sons of mine shall be under the age of twenty-one years or not. AND I EMPOWER such trustees or trustee to employ in such business, while the same is carried on as aforesaid, such amount of capital, and to enter into such contracts and engagements, and do all such acts and things relating thereto as they, she, or he shall think proper, and to engage and employ any of my sons or such other persons for the purpose of carrying on the same, with such salaries or wages as such trustees or trustee shall think fit. And generally to transact all matters and concerns respecting the said business, and to do or cause to be done all acts and things relative thereto in the same manner in all respects as if they, she, or he were absolutely entitled to or interested in the premises; it being my intention to give to such trustees and trustee for the time being full power, authority, and discretion to carry on such business as to them, her, or him shall seem most advantageous without being subject in any manner to the interference or control of any person interested under this my will. AND I EMPOWER such trustees and trustee for the time being to ascertain and determine from time to time the amount of the net gains and profits of the said business while carried on as aforesaid. And no person shall call in question the propriety

of the amount thereof so ascertained. AND I DIRECT that such gains and profits so ascertained shall, subject to the payment thereof of the annual sum hereinafter mentioned to my wife, from time to time be added to the moneys to be produced by the general trust or direction for sale hereinafter contained, and be held and be upon the said trusts as are hereinafter expressed concerning the same moneys. AND it is my will that when my sons C.B. and D.B. shall both have attained the age of twenty-one years, or upon the earlier discontinuance of the said business under the discretion in that behalf hereinbefore given to such trustees or trustee, the said business and the goodwill thereof, and the stock and effects of the same or employed therein, shall be sold to such of my said two sons as shall be desirous of purchasing the same, the option of such purchase being given to the elder of my said two sons then living, and if he should decline to purchase, then to the other of my said two sons. AND such son as shall become the purchaser shall pay as the purchase money the value of the said goodwill, stock, and effects, to be ascertained by three indifferent persons, one to be chosen by the trustees or trustee for the time being of this my will, one other by such son as shall become the purchaser, and the third by such two persons so chosen, or as shall be ascertained by any two of such three persons. AND such purchase money shall be paid in years, by equal half-yearly payments, the first half-yearly payment to be paid calendar months next after the amount of purchase money shall be ascertained as aforesaid, and such son shall also pay interest on such purchase money, or upon such part thereof as shall for the time being be unpaid, at the rate of £ per centum per annum by half-yearly payments. AND such son shall give such security for payment of such purchase money and interest as aforesaid as such

Sons to have option of purchasing business according to seniority.

Price to be ascertained by valuation.

Terms of payment.

If sons decline trustees or trustee shall reasonably require. AND in case
 to purchase, of any difference between them or him and such son as
 business to be sold. to the security to be given, the same shall be determined
 in such manner as is hereinbefore directed as to the
 ascertainment of the amount of purchase money to be
 paid as aforesaid. AND in case neither of my said two
 sons shall desire to purchase as aforesaid, or in case at the
 time of such trustees or trustee declining to carry on
 such business, or discontinuing the same, neither of my
 said two sons shall have attained the age of twenty-one
 years, then the said business and the goodwill thereof,
 and the stock and effects of the same or employed
 therein, shall be sold under the general trust or direction
 for sale hereinafter contained. AND it is my will that
 the trustees or trustee for the time being hereof (having
 regard to the provisions hereinbefore contained) shall
 sell all the said real and leasehold estate and property,
 and such parts of the said personal property as shall not
 consist of money, and collect and get in all moneys due
 and owing to me, and shall, out of the moneys to arise
 from such sales and to be collected and got in, and the
 moneys to arise from the sale of the said business and the
 goodwill thereof, and of the stock and effects of the same,
 pay my debts, my funeral and testamentary expenses, and
 the expenses incident to the execution of this my will,
 and also provide such mourning for my dear wife and
 family, and otherwise, as to such trustees or trustee
 shall seem proper, and shall also pay to my wife as soon
 as conveniently may be the sum of £ for her
 immediate occasions. AND, subject as aforesaid, it is
 my will that such trustees or trustee shall invest in
 their, her, or his names or name in or upon such
 stocks, funds, or securities as are hereinafter mentioned
 in that behalf, all the residue of the moneys to arise
 from the sale of the said real, leasehold and personal
 estate and property, and from the sale of the said

business and the goodwill thereof, and the stock and effects therein, and of the moneys to be collected and got in as aforesaid, and also the net gains and profits of the said business (after payment of the annual sum hereinafter mentioned to my wife), and all other (if any) the moneys forming part of the capital of my trust estate. AND such trustees and trustee shall be possessed of all the said moneys, stocks, funds, and securities upon the trust following, that is to say: IN TRUST to pay the interest, dividends, and resulting income thereof unto my wife during her life. AND I DIRECT that she shall, out of such income and the annuity hereinafter mentioned, while payable, maintain and educate such of my children, who being sons or a son shall be under the age of twenty-one years, and who being daughters or a daughter, shall be unmarried, whether having attained the age of twenty-one or not; BUT I DECLARE that the other trustees or trustee of my will shall not be concerned to see that such maintenance or education is provided by my wife. AND it is my will that such trustees or trustee shall, out of the net gains and profits of the said business, if and so long as the same shall be carried on under the foregoing direction in that behalf pay unto my wife the yearly sum of £ , by equal half-yearly payments in each year, as nearly as may be from the day of my decease, if she shall be living. But such yearly sum shall cease to be payable on the discontinuance of such business, or on the death of my wife, whichever event shall first happen. AND it is my will, that if in any year the net gains and profits of the said business to be ascertained by my trustees or trustee for the time being, shall not amount to the sum of £ , the amount only of such net gains and profits shall be paid to her, instead of the whole of such yearly sum, and the deficiency shall not be made good out of the gains and profits of

And to pay
income to
wife for life
who is to
maintain
children.

Annuity to be
paid out of
profits of
business to
wife for
similar
purpose.

any other year, or out of any other part of the said trust premises; and, subject as aforesaid, the trustees and trustee for the time being of this my will shall be possessed of the said moneys, stocks, funds, securities, and trust premises, and the interest, dividends, and resulting income thereof, IN TRUST for such of my children as shall survive me, and who, being sons or a son, shall at my decease have attained, or shall afterwards attain, the age of twenty-one years; and who, being daughters or a daughter, shall then have attained, or shall afterwards attain, the age of twenty-one years, or shall have married, or shall marry under that age; and for such of the children of any of my children who may die before me, as shall be living at my death, and as being male shall attain the age of twenty-one years, or being female shall attain that age, or marry under that age, as tenants in common. But so that the children of any deceased child of mine respectively shall be considered collectively as only one child or individual, and take amongst themselves only the share to which the deceased child of mine of whom they are issue would have been entitled if living at my death, and having attained the age of twenty-one years. But it is my will that the share of each of my daughters shall be for her separate use independently of any husband, and her receipt alone, whether covert or sole, shall be a discharge for the same.

Subject to preceding trusts for children who shall attain twenty-one or marry. Shares of daughters to be for their separate use. Advancement clause.

PROVIDED ALWAYS, and I hereby declare that it shall be lawful for the trustees or trustee for the time being of this my will, in the lifetime of my wife, with her consent in writing, to raise any part, not exceeding in the whole one-half of the share of any of my sons who shall have attained the age of twenty-one years, or of any of my daughters who may marry, in my residuary estate under the foregoing trusts, and to pay or apply the same for his, her, or their preferment, advancement or benefit, as such trustees or trustee shall think fit; and

the interest of my wife in the income thereof shall thereupon cease. AND I ALSO DECLARE that such trustees or trustee shall, from and after the death of my wife, pay or apply the whole, or such part as they or he shall think fit, of the interest, dividends, and income of the share to which any child or grandchild of mine shall, for the time being, be entitled in expectancy under the trusts hereinbefore declared, for or towards his or her maintenance or education, whether there be any other person bound by law to provide for such maintenance or education, or not, and may themselves or himself so pay or apply the same, or may pay the same to the father of such grandchild, or to the guardian of such child or grandchild, for the purpose aforesaid without seeing to the application thereof, and shall accumulate the residue, if any, of the same interest, dividends, or income for the benefit of the person or persons who under the trusts herein contained shall become entitled to the principal fund from which the same respectively shall have proceeded; but with power to apply such accumulations, or any part thereof, for or towards the maintenance or education of the child or grandchild for the time being presumptively entitled to the same at any future period.

I GIVE AND DEVISE all the freehold and copyhold estates, which at my death shall be vested in me upon any trusts, or by way of mortgage, unto the said B.B. and C.D., their heirs and assigns, UPON THE TRUSTS, and subject to the equity of redemption, which at my decease shall be subsisting or capable of taking effect therein respectively. AND I EMPOWER the trustees and trustee for the time being of this my will to pay and satisfy any debts owing, or claimed to be owing, by or from me or my estate, and any liabilities to which I or my estate may be, or may be alleged to be, subject, upon any evidence or for any reasons such trustees or trustee may think proper, and to accept any composition or any security

Maintenance
clause.

Devise of
trust and
mortgage
estates.

Power to
trustees to
arrange
liabilities.

To compound
for debts.

To postpone
sale.

And to lease.

for any debt or debts owing to me or my estate, and to allow such time for payment of any such debt or composition for a debt, as to such trustees or trustee shall seem reasonable. AND also to compromise or compound or submit to arbitration, and settle all debts, accounts, transactions, matters, and things, which shall be owing, or claimed to be owing, from or to me or my estate, or be depending, or arise between me or such trustees or trustee and any other person or persons, either in relation to the said business, or otherwise howsoever, and generally to act in relation to the premises as such trustees or trustee shall think expedient. AND I EMPOWER such trustees and trustee for the time being to postpone the sale of all or any part of the said real, leasehold, and personal estate and property, and to permit any part of the said personal property to remain in or upon any security or investment in or upon which the same may be at my decease for any period of time such trustees or trustee may think proper. But all the same premises shall, in the meantime, be considered as money, and shall be subject to all the trusts and purposes herein declared of and concerning the said trust-moneys and premises. And the net rents and resulting income thereof respectively, whether the same may be of a terminable, fluctuating, or uncertain character or otherwise, shall, in the meantime, be paid or applied to the person or persons for the purposes and in the manner to whom and for and in which the interest, dividends, and income of the moneys to arise from the sale of, or collecting, or getting in the same respectively, and the securities and investments thereof would be payable or applicable under the trusts herein declared, if the same had been invested (but not so as to multiply or increase any annuity or charge); AND I EMPOWER such trustees or trustee to demise the said real and leasehold estate and property, or any part or parts thereof for the time being remaining

unsold, for such periods of time, at such rents, and subject to such agreements, covenants, and conditions as such trustees or trustee shall think proper; and out of the rents and profits thereof to repair, improve, and manage the same, as such trustees or trustee shall consider judicious; and such trustees and trustee may employ collectors, clerks, accountants, and other persons to collect debts, rents, and other moneys, and otherwise, in the administration of my trust property, and in making out and keeping the accounts thereof with such salaries and allowances as such trustees or trustee shall think reasonable; AND I DECLARE that the sales hereinbefore directed to be made (having regard to the special provisions hereinbefore contained) may be made either by public auction or private treaty, and in such lots, parcels, and manner as to such trustees or trustee shall seem proper; and such trustees or trustee may make any stipulation as to title or evidence, or commencement of title, or otherwise; and may buy in or rescind any contract for sale, and again proceed to a sale of the premises so bought in, or as to which the contract for sale shall be rescinded; and such trustees or trustee may for all or any of the purposes hereinbefore mentioned execute and do all such assurances and things as they, she, or he shall think fit; AND I DECLARE that the discretion of the trustees or trustee for the time being of this my will in relation to all or any of the matters by this my will, either expressly or by implication committed to their, her, or his authority, judgment, or discretion, whether made upon a question formally or actually raised or implied in any of the acts or proceedings of such trustees or trustee, and every act or omission of such trustees or trustee as to any such matters shall conclude any person claiming under this my will, and no person shall call in question the propriety thereof; and any trustees or trustee shall not be accountable for any loss or damage which may be

Mode of
sale.

Trustees in-
demnity
clause.

Direction as
to invest-
ments.

occasioned thereby ; AND I DECLARE that the trustees and trustee for the time being of this my will shall invest in their, her, or his names or name all the moneys hereinbefore directed to be invested, and any other money that in the execution of the foregoing trusts it may be proper to invest in any of the public stocks or funds, or Government securities of the United Kingdom, or upon freehold, copyhold, or leasehold securities in England or Wales, or in or upon the stocks, debentures, mortgages, or securities of any Corporation or public body in the United Kingdom, expressly authorised by an Act of Parliament to borrow money ; AND such trustees or trustee may from time to time vary or transpose such stocks, funds and securities into or for others of the

And receipts.

same or a like nature ; AND I DECLARE that the receipt of the trustees or trustee for the time being of this my will for the purchase moneys of any property hereby directed or authorised to be sold, and for any other moneys which may be paid, and for any stocks, funds, and securities which may be transferred to such trustees or trustee under or by virtue of this my will, or in execution of any of the trusts or powers hereof, shall effectually discharge the person or persons paying or transferring the same therefrom, and from being bound to see to the application, or being answerable for the loss or misapplication thereof.

Power to
appoint new
trustees.

AND it is my will that if the trustees hereby constituted or either of them should die in my lifetime, or should at my decease refuse or be incapable or unable to act in the trusts of this my will ; or if they or either of them, or any trustees or trustee to be appointed as hereinafter provided, or by the Court of Chancery, should after my decease die or desire to be discharged, or refuse or become incapable to act in the trusts or powers aforesaid before the same shall have been fully performed ; or if without any vacancy it shall be considered advisable to increase the number of trustees, then and in every such

case it shall be lawful for the trustees or trustee for the time being competent and willing to act, or if there should be none such, then for the trustees or trustee desiring to be discharged, or being unwilling to act, in case all the competent trustees should be dead, and whether dying before or after me, then for the acting executors or executor, or administrators or administrator of the last surviving competent trustee from time to time, by any writing to appoint any other person or persons to be a trustee or trustees, in the place of the trustee or trustees so dying, desiring to be discharged, or refusing or being unable or incapable to act as aforesaid, or in increase of the number of trustees; AND that upon any such appointment, the number of trustees may be either increased or diminished; AND that upon or in anticipation of any such appointment, or from time to time afterwards as circumstances will permit or may require, all the moneys and property then subject to any of the trusts of this my will, shall be so conveyed or transferred that the same may be vested in the surviving or continuing trustee or trustees, jointly with such new trustee or trustees, or in such new trustee or trustees solely, as the case may require; AND I DECLARE that every trustee appointed as aforesaid may, as well before as after the trust premises shall have been so vested, act or assist in the execution of the trusts and powers herein contained, as fully and effectually as if he had been originally by this my will appointed a trustee thereof. IN WITNESS, &c.

257. *Codicil reviving a Will revoked by Marriage, and revoking two pecuniary Bequests, and giving an additional Legacy to two Brothers.* **Precedent 257.**

THIS IS A CODICIL to the last will of me, A.B., of &c., which will bears date, &c. WHEREAS since the date of Codicil reviving a will revoked by

marriage and
revoking two
pecuniary
bequests and
giving an
additional
legacy.

the said will my late wife therein mentioned has died, and I have intermarried with C.B. my present wife. Now I HEREBY revive and confirm the said will except so far as the same is altered or varied by this codicil. I REVOKE the bequest unto my wife of the sum of £ mentioned in my will. AND I ALSO REVOKE the bequest therein contained unto C.D. and his successors of the sum of £ for the purpose specified in the said will, and direct that the same shall not be paid. I BEQUEATH the sum of £ unto my brothers D.B. and E.B., equally to be divided between them for their own use and benefit in addition to, and not by way of substitution or part substitution of, the devises and bequests already made to them respectively by the said will. AND in all other respects I REVIVE AND CONFIRM my said will, and declare that the same and this codicil are to be taken as containing together my last will. IN WITNESS, &c.

**Precedent
258.**

258. Codicil of Widow, putting a married Daughter living with her apart from her Husband on a Footing with her unmarried or widowed Sisters, and excluding her from Sharing in the Residue.

Codicil
putting a
married
daughter on
a footing with
her unmarried
or widowed
sisters and
excluding her
from sharing
in the residue.

THIS IS A CODICIL, &c. WHEREAS by my said will I appointed, devised, and bequeathed certain real and personal estate unto and to the use of my trustees therein named upon trust to pay out of the annual income thereof (after the termination of a prior life estate therein to my husband in case he should survive me, which trust by his death in my lifetime has become incapable of taking effect) to such of my daughters as should then be unmarried, and to such of them as having been or being married should then or thereafter become widows or a widow, the annuity or yearly sum of £ each

during the time such of my said daughters so unmarried as aforesaid should remain spinsters, and during the widowhood of my said daughters so being or at any time becoming widows or a widow as aforesaid, such annuity to be paid to them by equal payments in each year; the first payment to be made months after the death of my said husband if he should survive me as aforesaid, and a proportionate sum to be paid for the fractional portion of any current at the time of her or their marriage or death. And upon further trust to pay and divide the residue or surplus (if any) of such annual income between and amongst the remainder of my said children in equal shares. AND WHEREAS my daughter E.F., the wife of F.F., is an invalid and totally unprovided for, and is now living with me, apart from her said husband, to whom in all probability she will never return. Now I DECLARE that it is my will and I hereby direct that my trustees for the time being shall, so long as my said daughter E.F. lives apart from her said husband F.F., pay to her out of the annual income of my said real and personal estate as aforesaid the like annuity or yearly sum of £ , in the same manner as is contained in the hereinbefore in part recited will with reference to such of my daughters as shall be unmarried or widows. PROVIDED ALWAYS, that so long as the said E.F. continues to receive the said annuity or yearly sum of £ she shall not be entitled to share with the remainder of my said children in the residue and surplus (if any) of such annual income as hereinbefore mentioned. AND in all other respects I RATIFY AND CONFIRM, &c. [*as in preceding Precedent.*] IN WITNESS, &c.

Precedent 259. *259. Codicil bequeathing lapsed Legacies and reducing and increasing other Bequests.*

Codicil bequeathing lapsed legacies and reducing and increasing other bequests.

I, A.B., of &c., DECLARE this to be a CODICIL to my will, dated &c. WHEREAS since the date of my said will my sister C.D. has died, I THEREFORE REVOKE all the legacies and bequests contained in my said will to or in favour of my said sister, and in lieu thereof I GIVE AND BEQUEATH unto all the children or any the child of the said C.D. living at my death, and if more than one in equal shares as tenants in common, the like legacies and bequests (except the pecuniary legacy of £ given by my said will, which I now direct to be reduced to £) as are contained in my said will to or in favour of my said sister, my intention being that the children or child of my said sister shall stand in her place, and take all the bequests given to her by my said will, except the said legacy of £ , which I have hereinbefore directed to be reduced as aforesaid; AND I HEREBY DIRECT such reduced legacy to be paid to such children or child in lieu of the said legacy of £ . I REDUCE the legacy of £ to my sister E.F., or her children or child as the case may be, to £ . AND I INCREASE the sum of , by my said will directed to be set apart and invested for the benefit of G.G., H.G. and K.G. to the sum of . I BEQUEATH to each of my executors W.X. and Y.Z., who shall act in the execution of the trusts of my will, the sum of £ . AND WHEREAS G.H. named in my said will is now dead, I THEREFORE REVOKE the legacy of £ thereby given to him, and in lieu thereof I BEQUEATH a legacy of £ to his brother H.H. if he shall be living at my death, such sum to be paid to his father, and to be by him applied towards the education of the said H.H.; BUT if the said H.H. shall die before me, I DIRECT the said £ to be paid

to his mother for her separate use in addition to any other benefit to which she may be entitled under my said will. AND, subject to the alterations aforesaid, I CONFIRM my said will. IN WITNESS, &c.

260. *Codicil of Widow giving one of two Daughters a Power of Appointment over her Moiety and defeating Right of Survivorship as declared by Will.*(a) **Precedent 260.**

THIS IS A CODICIL, &c. WHEREAS by my said will I declared that in case of the death of either of my daughters therein named without issue, that the moiety of such daughter so dying and the accumulations and income thereof should be held in trust for the other of them during her life and after her death for her children or child. Now it is my will and I HEREBY DIRECT that in case of the death of my daughter G.B. without leaving issue, and whether such death shall happen in the lifetime of my other daughter or after her decease, then the moiety of the said G.B. and the accumulations and income thereof shall be held by the trustee or trustees for the time being of my said will for such person or persons and for such purposes as the said G.B., whether covert or discover, shall by will or codicil appoint. AND in default of any such appointment, and so far as any such appointment shall not extend, the said moiety shall be held on the original trusts in the said will expressed concerning the same. AND in all other respects I RATIFY AND CONFIRM my said will. IN WITNESS, &c.

Codicil giving one of two daughters a power of appointment over her moiety and defeating right of survivorship as declared by will.

(a) The will here referred to is Precedent 254, *ante*, p. 303.

261. *Articles of Marriage.*

1. That the said C.D. and A.B., for themselves, their heirs, executors, and administrators, agree with the said E.F. and G.H., their executors, administrators, and assigns, that they and each of them will, as soon as conveniently can be after the solemnisation of the said marriage, make, execute, and perfect such deed or deeds, assurance or assurances, as shall be necessary and proper for conveying and assuring all the property real and personal of which the said C.D. or the said A.B., in her right, may now or at any time hereafter become seized, possessed of, or entitled to to the said E.F. and G.H., their executors, administrators, and assigns, upon the uses and for the trusts hereinafter mentioned, that is to say, UPON TRUST to hold the same during the life of the said C.D. to the use of the said C.D., free from the control of the said A.B., or any future husband, and without power of anticipation during coverture, and after the death of the said C.D. to the use of the said A.B. during his natural life, or until he shall become a bank-

rupt, or assign, charge, or incurber the same, or attempt so to do, whichever shall first appear, and from and after the determination of the estate or interest of the said A.B., if he shall survive the said C.D., or from and after the death of the said C.D. to the use of such child or children of the said C.D. and A.B. as shall attain the age of twenty-one, and if no child or children of the said A.B. and C.D. shall attain that age, to the use of the heirs, executors and administrators of the said C.D., according to the nature and quality thereof.

2. That the said A.B., for himself, his heirs, executors, and administrators, agrees with the said E.F. and G.H., their executors, administrators, and assigns, that he will, with all convenient speed after the solemnisation of the said marriage, insure his life in some solvent and respectable life assurance office for the sum of £ at the least, and will assign and convey the same as nearly as can lawfully and effectually be done to the uses and upon the trusts hereinbefore contained.

Agreement by intended husband to insure his life.

3. That it is agreed by and between the parties hereto that all deed or deeds, assurance or assurances, to be made and executed in pursuance of these articles shall contain all usual and proper covenants, provisoes, agreements, and declarations for the indemnity and reimbursement of trustees for the appointment of new trustees for making the receipts of the trustees sufficient discharges for the maintenance and education of children for the sale or conversion of the property hereby agreed to be conveyed or assigned with the consent of the person (if any such) for the time being entitled to the produce thereof, and the settlement of the proceeds of such sale or conversion as nearly as may be to the uses and upon the trusts hereinbefore contained, and for keeping in force the said policy of assurance and all other proper clauses for enabling the trustees to execute and perform the trusts reposed in them. AS WITNESS, &c.

Settlement to contain all usual and proper covenants, &c.

Precedent 262. *Bond to secure faithful Discharge by an Agent of his Duties.*

Bond.

KNOW ALL MEN by these presents, that I, A.B., of &c. [*agent*], am held and firmly bound to C.D. and E.F.; of &c. [*principals*], in the sum of £ , of lawful money of Great Britain. AND that we, W.X. and Y.Z., of &c. [*sureties*], are held and firmly bound unto the said C.D. and E.F. in the sum of £ of like lawful money, each such sum and sums to be paid to the said C.D. and E.F. or their certain attorney, executors, administrators, or assigns, FOR THE PAYMENT of which several sums to be well and truly made we bind ourselves jointly, and each of us binds himself separately to the extent before mentioned, our and each of our heirs, executors, and administrators, and every of them firmly by these presents SEALED with our seals, and dated this day of , 18 .

Recital of agreement for services of agent.

WHEREAS by articles of agreement,^(a) bearing even date herewith, and made between the said A.B., of the one part, and the said C.D. and E.F., of the other part, it was agreed that the said A.B. should be employed and act for the said C.D. and E.F. as agent for the sale of sold by them, and should faithfully and honestly execute and perform the duties of his employment as such agent, and to the utmost of his skill and knowledge promote the interests of the said C.D. and E.F.; and from time to time on request render to them in such form as they should require just and true accounts of all his dealings and transactions as such agent, upon the terms and for the commission in the said agreement mentioned. And it was further agreed that the said A.B. should (except as therein mentioned) collect and receive the accounts and debts to become due and owing to the said

(a) The agreement to which this bond has particular reference is Precedent 34, *ante*, p. 58.

C.D. and E.F., for goods, stores, and merchandise, supplied through the agency of the said A.B., and should pay over to the said C.D. and E.F., on day and day in every week, the moneys so to be received by him on their account as aforesaid; and that he should not sell goods on credit to any person whom the said C.D. and E.F. should previously have forbidden him to trust; and that he should personally make good all loss to be sustained by the said C.D. and E.F. by reason of any breach of that stipulation or any of the conditions therein contained. AND WHEREAS for securing the due payment unto the said C.D. and E.F. of all moneys to be received by the said A.B. on their account under the said recited agreement, the said A.B. has agreed to become bound in the sum of £ , and the said W.X. and Y.Z. as his sureties and at his request have agreed to become bound in the sum of £ each. And agree-
ment for
bond.

Now THE CONDITION of the above BOND or obligation is such that IF the said A.B. shall from time to time and at all times hereafter duly and regularly pay to the said C.D. and E.F. all moneys which shall come to his hands under or by virtue of the said agreement, and faithfully and honestly discharge and execute the duties of his employment as such agent as aforesaid, and well and truly perform all the stipulations in such agreement on his part contained, and save harmless and keep the said C.D. and E.F. indemnified from and against all loss, costs, damages, and expenses to be incurred or sustained by reason of any act or omission on the part of the said A.B. while acting as such agent as aforesaid, or after the determination of his agency, THEN the above written bond or obligation shall be void, otherwise the same shall remain in full force and virtue. Condition on
which bond
to be void.

Precedent 263. Certificate on Attested Copy of a Document.

Certificate on
attested copy
of a document.

263.

WE HEREBY CERTIFY that the writing on this and the preceding sheets [*or pages*] of paper to which we have set our respective initials contains a true and exact copy of the original deed [*or agreement*], of which such writing purports to be a copy as also of the value of the stamp duty impressed thereon, we having this day of , 18 , carefully compared it with the said original deed [*or agreement*].

A. B. { Clerks to Mr. Y. Z.,
C. D. { Solicitor,
(*Address.*)

Precedent 264. Conveyance to a Member of a Land Society.

264.

Parties.

Witnesseth.
Consideration.

Receipt.

arrels.

THIS INDENTURE, made, &c. BETWEEN A.B., of &c. and C.D., of &c. [*trustees of the Land Society and vendors*], (hereinafter called "the said vendors") of the one part, and E.F., of &c. [*a fully paid-up member of the Society entitled to his conveyance*] (hereinafter called "the said purchaser"), of the other part. WITNESSETH that in consideration of £ to the said vendors, now paid by the said purchaser, for the purchase of the fee simple of the hereditaments comprised in the Second Schedule hereunder written (the receipt whereof they hereby acknowledge). THEY the said vendors do and each of them doth hereby grant and convey unto the said purchaser and his heirs ALL that piece of land situate in the township of , in the county of , particularly delineated and coloured in the plan thereof drawn upon these presents and specified in the Second Schedule hereunder written, together with the free use of the

several roads or ways distinguished and marked in the said plan, AND together with all buildings, fixtures, General words. rights, easements, advantages, and appurtenances whatsoever, to the same appertaining, or with the same held, or enjoyed, or reputed as part thereof or appurtenant thereto, reserving nevertheless to the vendors, their heirs and assigns, and the owners and occupiers of the adjoining lands for ever hereafter the free use and enjoyment of the said several roads or ways for all tenantly purposes. AND all the estate and interest of the said vendors in the premises, TO HOLD the said premises unto Habendum. and to the use of the said purchaser, his heirs and assigns for ever. AND each of them the said vendors, so far as Covenant by vendors for right to convey free from incumbrances. relates to his respective acts, deeds, and defaults, for himself, his heirs, executors, and administrators, hereby COVENANTS with the said purchaser, his heirs and assigns that, notwithstanding anything by the said vendors respectively done or knowingly suffered, they have power to grant and convey the premises in manner aforesaid free from incumbrances. AND that all the For quiet enjoyment. said premises may be quietly entered into, held, and enjoyed by the said purchaser, his heirs and assigns, without any interruption or disturbance by the said vendors, or any person claiming through or in trust for them. AND that they the said vendors, their heirs, and For further assurance. every person claiming as aforesaid, will at all times, at the cost of the said purchaser, his heirs or assigns, execute and do all such assurances and things for more effectually assuring the said premises to the use of the said purchaser, his heirs and assigns as by him or them shall be reasonably required. AND the said vendors, for To produce deeds. themselves, their heirs, executors, administrators, and assigns, hereby COVENANT with the said purchaser, his heirs and assigns that they the said vendors, their heirs or assigns will at all times hereafter (unless prevented by fire or other inevitable accident), on the request in

writing of the said purchaser, his heirs or assigns, or any person lawfully or equitably claiming through him or them any estate in the said premises at the expense of the person or persons requiring the same, produce to him or them, or to such person as he or they shall appoint, or in any Court of Judicature, or elsewhere in England, as occasion shall require, the several deeds and writings specified in the First Schedule hereunder written for the support or manifestation of the estate or title of the said purchaser, his heirs and assigns, and of every or any person claiming as aforesaid. AND on such request and at such expense as aforesaid make and deliver to the person or persons requiring the same such true copies, attested or unattested, of the same deeds and writings as he or they may require, and in the meantime keep the said deeds and writings safe, uncanceled, and undefaced. AND the said purchaser, for himself, his heirs, executors, administrators, and assigns, hereby COVENANTS with the said vendors, their heirs and assigns in manner following, that is to say, that he the said purchaser, his heirs, executors, administrators, or assigns shall not, nor will, make or burn any bricks on the said land, nor open out or quarry any stone other than what shall be necessary in excavating the foundations of the dwelling houses to be built thereon. That no steam engine, steam boiler, limekiln, sawpit, soapery, or other offensive or noisome manufactory or building shall at any time hereafter be set up or erected upon the said land.

And furnish copies.

Covenant by purchaser not to burn bricks, &c.

Not to erect steam engine.

Not to build more than houses.

Not to build until plans approved.

THAT not more than semi-detached dwelling-houses, or single dwelling house, with the necessary outbuildings, shall at any time be built upon the said land. THAT no dwelling house or other building shall at any time be erected upon the said land until the plans thereof shall have been submitted and approved of by the said vendors, or the survivor of them, their, or his heirs or assigns, or their or his surveyor. THAT no

dwelling house which shall be built upon the said land shall be of less value than £ , exclusive of the site, except in the case of double villas, which shall not be of less value than £ , exclusive of the site, and that the said dwelling houses respectively, including projections at the front, shall be set back neither more nor less than yards from the outside of the front boundary wall, nor shall the outer walls thereof be nearer the boundary line of the adjoining land than feet, and the principal floor of each house shall be raised not less than feet above the level of the curb immediately opposite, and that the open space at the front of the said houses respectively shall be enclosed to the front of the road bounding the same and co-extensive therewith with a brick wall not exceeding feet inches high, neatly finished with a polished stone coping and iron railings of uniform pattern, to be approved by the said vendors, not exceeding feet high. THAT no cellar shall be let or occupied as a separate habitation, or for any purposes of trade, nor shall any building to be erected upon the said land be used as a beer-house or public-house, or for the sale, retail or wholesale, of wares or merchandise of any kind. AND THAT in case the said vendors, their heirs, executors, administrators, or assigns shall at any time desire to build a boundary wall or walls on the side of either piece of land next adjoining or at the back of the land hereby conveyed, that he the said purchaser, his heirs, executors, administrators, or assigns shall and will permit the same to be built as to half in width thereof upon the land hereby conveyed, and will repay to the person building the same one moiety of the cost thereof, so far as the same is co-extensive with the land hereby conveyed, provided always that such boundary wall or walls, by whomsoever built, shall be inches thick, and shall not be less than nor exceed

Not to build house of less value than £

Not to let any cellar separately.

And if vendors desire to build a boundary wall purchaser will permit one half in width to be built on land conveyed and repay moiety of cost.

feet high, and shall be finished with a coping of double bull-nose bricks. IN WITNESS, &c.

Schedule I. THE FIRST SCHEDULE REFERRED TO.

[Here insert the dates and descriptions of and the parties to the various title deeds and documents covenanted to be produced in chronological order.]

Schedule II. THE SECOND SCHEDULE REFERRED TO.

ALL that piece of land numbered on the general plan of the estate situate on the side of a new road called Road, in the township of aforesaid, containing in front thereto , and in breadth at the back respectively, and in depth on the side , and in depth on the side , and containing in the whole superficial square yards be the said several dimensions and contents, or any of them, more or less, according to the said plan.

Precedent 265. 265. *Deed of Separation. Husband to take the Children, and allow Maintenance to Wife, who is to see Children once a Week.*

Parties.	THIS INDENTURE made, &c., BETWEEN A.B., of &c., [husband], of the first part, C.D., of &c. [trustee], of the second part, and B.B., wife of the said A.B., of the third part. WHEREAS unhappy differences have lately arisen and still exist between the said A.B. and B. his wife, and they have mutually agreed to live separate and apart from each other during the remainder of their
Recital of agreement for separation.	
And allowance by husband for maintenance.	lives. AND WHEREAS the said A.B. hath agreed to allow his said wife the sum of shillings per week during her natural life for her maintenance and support, and the said parties hereto have agreed to enter into and
Witnesseth.	execute these presents. NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreements, and in consideration of the premises, the said A.B. doth hereby for himself, his heirs, executors, and administrators, COVENANT, promise, and agree to and with the said C.D., his
Covenant by husband to permit wife to live apart.	

heirs, executors, and administrators, in manner following, that is to say, that it shall and may be lawful for the said B.B., and that the said A.B. shall and will permit, and suffer her from time to time, and at all times henceforth during her natural life, to live separate and apart from him, and to reside and be in such place and places, and family and families, and with such relations, friends, and other persons, and to follow and carry on such trade and business as she from time to time at her will and pleasure (notwithstanding her present coverture, and as if she were a single woman and unmarried) shall think fit. AND THAT the said A.B. shall not, nor will at any time or times hereafter, sue her in the Court of Divorce, or any other Court, for living separate and apart from him, or to compel her to cohabit with him, or sue, molest, or disturb, or trouble her for such living separate and apart from him),(a) or sue, molest, or trouble any other person or persons whomsoever for receiving, harbouring, or entertaining her. AND shall not, nor will without the consent of the said B.B., visit her, or knowingly come into any house or place where she shall or may dwell, reside, or be, or send or cause to be sent, any letter or message to her. AND shall not, nor will at any time hereafter, claim or demand any of the moneys, clothes, linen, household goods, furniture, stock-in-trade, property, estate or effects which the said B.B. now hath in her custody, power, or possession, or which she shall or may hereafter buy and purchase, or which shall be devised or given to her, or she shall otherwise acquire, and that she shall and may enjoy, and absolutely dispose of the same as if she were a single woman and unmarried. AND THAT the said A.B., his heirs, executors, or administrators, shall and will pay, or cause to be paid unto the said C.D., his heirs, executors, or adminis-

Not to sue for restitution of conjugal rights.

Nor visit her.

Nor claim her property.

And to pay weekly allowance for her maintenance.

(a) See *Hunt v. Hunt*, 39 Beav. 89; 31 L. J. Ch. 161.

Proviso that children shall reside with husband.

Subject to right of wife to see them once a week at house of trustee.

Witnesseth.
Covenant by trustee to indemnify husband against wife's debts.

trators (or unto her the said B.B., if he or they shall so direct), the sum of shillings weekly, and every week during the term of the natural life of the said B.B. for her maintenance and support, (a) clear of all deductions whatsoever, the first payment thereof to be made on the day , 18 . PROVIDED ALWAYS, and it is hereby expressly agreed by and between the said parties hereto, that all and every the children and child of the said A.B. and B. his wife shall live in the house of the said A.B., or in such other house as he shall appoint, and be educated and maintained by him, and remain entirely under his care, authority, and control. (b) And the said B.B. shall not in any manner interfere with regard to the said children, or child, or their maintenance and education. NEVERTHELESS, it is hereby agreed that the said B.B. shall be at liberty, if she shall think proper, once in every week to see and converse with the said children or child at the dwelling house of the said C.D., except during such time as the said children or child may be unavoidably absent by reason of their being at school at a distance, or otherwise unable to attend from any cause whatever. AND THIS INDENTURE ALSO WITNESSETH that, in consideration of the premises, the said C.D. doth hereby for himself, his heirs, executors, and administrators, COVENANT, promise, and agree to, and with the said A.B., his heirs, executors, and administrators, that the said C.D., his heirs, executors, and administrators, shall and will at all times during such time as the said A.B. and B.B. shall continue to live separate and apart

(a) If this payment is to be only continued during good behaviour, words to that effect must be inserted. (See *Charlesworth v. Holt*, 43 L. J. Ex. 25).

(b) A stipulation that the wife shall have the custody of the children is, in the absence of special circumstances, contrary to public policy and void: (*Vansittart v. Vansittart*, 4 K. & J. 62; *Walrond v. Walrond*, Johns. 18; *Hamilton v. Hector*, L. Rep. 13 Eq. 511.)

from each other, keep the said A.B., his heirs, executors, and administrators, indemnified from and against all debts and liabilities to be contracted or incurred by the said B.B., after the date hereof upon any account whatsoever, and from all actions, suits, expenses, and claims for, or on account, or in respect of such debts and liabilities, or any of them, or any act, deed, matter, or thing in anywise relating to the premises.(a) IN WITNESS, &c.

266. *Indenture of Apprenticeship.*

**Precedent
266.**

THIS INDENTURE made, &c., BETWEEN A.B., aged _____ years, son of C.B., of &c., of the first part, the said C.B. [father], of the second part, and Y.Z., of &c. [employer], of the third part. WITNESSETH that the said A.B., with the approval of the said C.B., and of his own free will, doth hereby place and bind himself an apprentice to the said Y.Z., in the art, trade, or mystery of a _____, from the _____ day of _____, 18____, for the term of _____ years. AND the said C.B. for himself, his heirs, executors, and administrators, hereby COVENANTS with the said Y.Z., his executors, administrators, and assigns, that the said A.B. shall faithfully serve the said Y.Z. during the whole of the said term, and shall not waste, embezzle, give or lend any money or property in his possession or control, nor at any time absent himself from his service without first obtaining his consent thereto, or do or suffer any act or omission whatsoever to his prejudice, but in all things shall behave and demean himself as a faithful apprentice ought to do. AND also that the said C.B., his executors or administrators, will, from time to time, during the said term, duly provide the said A.B. with proper food, lodging, and wearing

Parties.

Witnesseth.

Apprenticeship.

Covenant by father for faithful service of son.

And to provide board and lodging.

(a) As to this covenant, see *Stephens v. Olive* (B. C. C. 90); and *Walrond v. Walrond* (*ubi supra*).

apparel, and the washing and mending thereof, and also with medicine, and medical attendance (if necessary).

Witnesseth. AND THIS INDENTURE ALSO WITNESSETH that, in consideration of the premises, the said Y.Z. for himself, his heirs, executors, and administrators, hereby COVENANTS with the said C.B., his executors and administrators, that he the said Y.Z. will teach the said A.B., or cause him to be taught by the best means in his power, the art, trade, or mystery of a _____, and will during the said term, if he shall faithfully serve as aforesaid, pay to him wages after the rate hereinafter mentioned, that is to say, for the first year of the said term the sum of _____ shillings per week; for the second year, &c. [*and so on, specifying the amount per week for each year of the term*]. PROVIDED ALWAYS, that no wages shall accrue due, or be payable for any week or portion of a week or longer period during which the said A.B. shall be absent through sickness or otherwise; but that in case of such absence he shall, after the expiration of the said term, serve such additional time as shall, with that already served, fully complete a working term of _____ years. NEVERTHELESS, the said A.B. shall only be entitled to receive therefor such wages as he would have been entitled to receive at the time or respective times of absenting himself had he been present, and at work. AND IT IS HEREBY EXPRESSLY AGREED between the parties hereto that in case the said A.B. shall at any time misbehave or absent himself without leave or lawful excuse, or shall not perform and observe the covenants hereinbefore contained, it shall be lawful for the said Y.Z. to dismiss him from his service, without any notice whatever; and these presents shall thenceforth cease and be void.(a) IN WITNESS, &c.

Covenant by employer to teach apprentice.

Proviso for suspension of wages during sickness, &c.

Agreement for determining apprenticeship in case of misbehaviour.

(a) See 38 & 39 Vict. c. 90, ss. 5-7, and s. 12.

267. *Reconveyance of Freeholds (a) by Mortgagee* **Precedent 267.**
to Mortgagor on Repayment of Loan (endorsed).

THIS INDENTURE made, &c., BETWEEN the within-named Parties.
 C.D. [*mortgagee*], of the one part, and the within-named
 A.B. [*mortgagor*], of the other part. WHEREAS the Recital of
 principal sum of £ , with all interest thereon mortgage debt
 secured by the within-written indenture, has been fully having been
 paid and satisfied by the said A.B. to the said C.D., as repaid.
 he doth hereby admit and acknowledge. Now THIS Witnesseth.
 INDENTURE WITNESSETH that, in consideration of the said Consideration.
 payment the said C.D. doth hereby grant unto the said
 A.B. and his heirs ALL and singular the hereditaments Parcels.
 and premises comprised in and conveyed by the within-
 written indenture, or which by any means are now vested
 in the said C.D., subject to redemption by virtue of the
 same indenture, TOGETHER with their rights, members, General
 and appurtenances. AND all the estate and interest of words.
 the said C.D. therein or thereto. To HOLD the said Habendum.
 premises unto and to the use of the said A.B. and his
 heirs FREED from the within-mentioned mortgage debt Freed from
 of £ , and interest secured by the within-written debt.
 indenture. AND the said C.D. for himself, his heirs, Covenant by
 executors, and administrators, hereby COVENANTS with the mortgagee
 said A.B., his heirs and assigns, that the said C.D. has against in-
 never done or suffered or been party or privy to any act cumbrances.

(a) This form may easily be adapted to a reassignment of leaseholds, the operative word being altered into "assign," and the words of limitation in the *habendum* and covenant also made appropriate to the different tenure. The mortgagee seems, in addition, to be entitled to a covenant from the mortgagor to pay the rent, and observe the covenants on the lessee's part contained in the lease: (see 2 Dav. Conv. 477.) These observations have, of course, no reference to mortgages of leaseholds made by demise where the estate of the mortgagee is revested in the mortgagor by surrender, and where the mortgagee never became liable to the covenants in the lease.

or thing whereby the said premises or any part thereof are, is, or may be impeached, incumbered, or prejudicially affected in anywise howsoever. IN WITNESS, &c.

Precedent 268. *Bill of Sale to secure a Debt and present Loan.*

Parties. THIS INDENTURE made, &c., BETWEEN A.B., of &c. [*mortgagor*], of the one part, and C.D., of &c. [*mortgagee*], of the other part. WHEREAS the said A.B. is indebted to the said C.D. in the sum of £ , for money lent by the said C.D. to him ; and the said A.B. has applied to the said C.D. to advance him the further sum of £ which the said C.D. has agreed to do on having the repayment of both the said sums with interest secured in manner hereinafter appearing. Now THIS INDENTURE WITNESSETH that, in pursuance of the said agreement, and in consideration of £ , so due and owing as aforesaid, and of £ paid to the said A.B. by the said C.D. at or immediately before the execution of these presents (the receipt whereof is hereby acknowledged), the said A.B. doth hereby assign unto the said C.D., his executors, administrators, and assigns, **Parcels.** ALL and singular the furniture, plate, and plated articles, linen, glass, china, books, household furniture, effects, and articles of use and ornament, pictures, paintings, engravings, wines, spirituous liquors, fixtures, fittings-up, goods and chattels, which now are, or at any time hereafter shall be, in and upon the messuage and premises, No. in Street, , now in the occupation of the said A.B., and which are particularly specified in the schedule hereunder written. AND all the right and interest of the said A.B. in, to, or upon **Habendum.** the said premises. To HOLD all and singular the said premises unto the said C.D., his executors, administra-

tors, and assigns, to and for his and their own use and benefit, subject to the proviso for redemption hereinafter contained. PROVIDED ALWAYS, and it is hereby declared Proviso for redemption. and agreed by and between the said parties hereto, that if the said A.B., his executors, administrators, or assigns, shall, on the day of next, pay or cause to be paid unto the said C.D., his executors, administrators, or assigns, the several sums of £ and £ , making together £ , and interest thereon at the rate of £ per cent. per annum, to be computed from the day of the date of these presents. AND also all such other sum or sums of money as shall be due or owing by the said A.B., his executors or administrators, to the said C.D., his executors, administrators, or assigns upon any account whatsoever, with interest thereon at the rate aforesaid, to be computed from the day or respective days of the same being advanced or becoming due, all such payments to be made without any deductions or abatements whatsoever, then and in such case the assignment hereinbefore contained, and these presents and every article, clause, and thing herein contained shall cease and determine. AND IT IS HEREBY Power for mortgagee to enter and take possession. DECLARED that it shall be lawful for the said C.D., his executors, administrators, or assigns, at any time after the day lastly hereinbefore mentioned, while any money shall remain owing upon the security of these presents to enter upon the said messuage and premises, or upon any messuage or premises belonging to or occupied by the said A.B., or upon which any property comprised in this security shall be or shall be supposed to be, and take possession of all and singular the said premises; AND for that purpose, or for the purposes of effecting any sale under the power in that behalf hereinafter contained, to have full liberty of ingress, egress, and regress to and from the said messuage and premises, and of remaining in and upon the same at all reasonable times. But that

until possession shall be so taken the premises shall remain in the possession of the said A.B., his executors, administrators, or assigns. **Power of sale.** AND IT IS HEREBY DECLARED that it shall be lawful for the said C.D., his executors, administrators, or assigns, at any time after the said day of next, without any further consent on the part of the said A.B., his executors, administrators, or assigns, to sell the premises hereinbefore expressed, to be hereby assigned or any part thereof by public auction or private contract, and either together or in lots, and either in or upon the said messuage and premises or in any other place, and subject to such conditions and in such manner as the said C.D., his executors, administrators, or assigns shall think fit, with power to buy in and rescind, abandon, or vary any contract for sale, and again to proceed to a sale without being responsible for any loss occasioned thereby. AND for all or any of the purposes aforesaid to do, enter into, and execute all such acts, contracts, and assurances, as he or they shall think fit. **Purchaser not bound to inquire if any default made.** AND IT IS HEREBY DECLARED that upon any sale purporting to be made in pursuance of the aforesaid power in that behalf, the purchaser or purchasers shall not be bound to see or inquire whether any money remains owing upon this security, or whether any default has been made in payment of the moneys intended to be hereby secured as aforesaid, or as to the necessity or expediency of the stipulations subject to which any such sale shall have been made, or otherwise as to the propriety or regularity of any such sale; and notwithstanding any impropriety or irregularity whatsoever in any such sale the same shall, so far as regards the safety and protection of the purchaser or purchasers, be deemed to be within the aforesaid power in that behalf, and be valid accordingly. **Mortgagee's receipts to be effectual discharges to purchaser.** AND IT IS HEREBY DECLARED that the receipt of the said C.D., his executors, administrators, or assigns for the purchase money of the pre-

mises sold shall effectually discharge the purchaser or purchasers therefrom and from all responsibility in respect of the application thereof. AND IT IS HEREBY Trusts of purchase money. DECLARED that the said C.D., his executors, administrators, or assigns, shall, out of the moneys arising from any sale, in pursuance of the aforesaid power in the first place, thereout pay the expenses of and incidental to the preparation, registration, and (if necessary) the re-registration from time to time of these presents, and the expenses incurred in and about such sale or otherwise in respect of the premises. AND in the next place, in or towards satisfaction of the moneys for the time being owing upon the security of these presents, and then pay the surplus (if any) unto the said A.B., his executors, administrators, or assigns. AND IT IS HEREBY DECLARED Declaration that all articles in or about the premises during the continuance of the security shall be included therein. that all articles, goods, and chattels which, during the continuance of this security, shall be in and about the said messuage and premises in addition to or in substitution for any articles, goods, and chattels now in and about the same and hereby assigned shall be comprised in this security, and be subject to the powers, provisoes, declarations, and covenants herein contained. AND the Covenant by mortgagor for payment of mortgage debt. said A.B., for himself, his heirs, executors, and administrators hereby COVENANTS with the said C.D., his executors, administrators and assigns, that he the said A.B., his heirs, executors or administrators, will on the day of next, pay to the said C.D., his executors, administrators; or assigns, the said several sums of £ and £ , making together £ , with interest for the same respectively, at the rate of £ per cent. per annum from the date hereof. AND also any and every further sum and And further sums. sums of money which shall be due or owing by the said A.B., his executors or administrators, to the said C.D., his executors, administrators, or assigns on any account whatsoever, together with interest thereon at the rate

aforesaid from the time or respective times of the same being due and owing, without any deduction or abatement whatsoever. AND THAT the said A.B. now hath good right and full power to assign all the said premises in manner aforesaid, free from incumbrances. AND THAT the said A.B., his executors or administrators, shall not at any time or times hereafter, during the subsistence of this security, do or allow any act or deed whereby the said premises, or any part thereof, shall be charged or prejudicially affected. AND THAT the said A.B., his executors, administrators, and assigns, and every person claiming under or in trust for him, and them, will at all times hereafter until sale under the power hereinbefore contained at his and their own costs and charges, and afterwards at the cost and charges of the person or persons requiring the same, execute and do all such assurances and acts required for perfecting the assignment hereby made, and facilitating the recovery of the said premises, or any part thereof. IN WITNESS, &c.

THE SCHEDULE referred to.

Precedent 269. *Second further Charge by a Mortgagor to Mortgagees to secure a Debt and further Advances (endorsed).*

Parties. THIS INDENTURE made, &c., BETWEEN the within-named A.B. [*mortgagor*], of the one part, and the within-named C.D. and E.F. [*mortgagees*], of the other part. WHEREAS

Recital of additional advance since the date of the mortgage. since the day of , 18 , the date of the indenture firstly endorsed on the within-written indenture, the said C.D. and E.F. have lent to or paid for the use of the said A.B. the further sum of £ in addition to the therein mentioned sums of £

And agreement for and £ . AND WHEREAS the said C.D. and E.F., having required security for the said sum of £ ,

and for any further sum or sums of money in which the said A.B. may at any time hereafter become indebted to them, or either of them, with interest for the said sum of £ , and any such further sum or sums of money, at the rate of £ per cent. per annum, the said A.B. has agreed to give such security for the same, as hereinafter appears. ^{security for same and further sums.} NOW THIS INDENTURE WITNESSETH ^{Witnesseth.} that, in consideration of the premises, he, the said A.B., ^{Consideration.} doth hereby, for himself, his heirs, executors, and administrators COVENANT with the said C.D. and E.F., their executors, administrators, and assigns, and doth also direct and appoint that ALL the several pieces or parcels ^{Parcels.} of land, messuages or dwelling houses, cottages, public-house, shops, and hereditaments comprised in the within-written indenture, with the appurtenances thereof; and also the moneys to arise from the sale or sales thereof; and all moneys that shall come to the hands of the said C.D. and E.F., or the survivor of them, or the executors or administrators of such survivor, their or his assigns, by virtue of the powers, trusts, and authorities contained in the within-written indenture, shall at all ^{Further charge.} times hereafter stand, remain, and continue charged and chargeable with, and be a security for as well the payment of the said sum of £ and interest as expressed in the within-written indenture, and the said sums of £ and £ , making together the sum of £ , and interest for the same, as expressed in the said firstly endorsed indenture, as also the payment of the said sum of £ , together with interest thereon at the rate of £ per cent. per annum, from the day of last, and any and every further sum of money in which the said A.B. may at any time or times hereafter become indebted to the said C.D. and E.F., or either of them, for money lent, or upon any other account whatsoever, together with

Premises not to be redeemable until additional advance and further sums repaid.

Provisions contained in the prior mortgage to be applicable to the present security. Covenant by mortgagor for payment of the additional advance.

interest for the same at the rate of £ per cent. per annum from the time or respective times of the same or any part thereof being advanced or becoming due. AND THAT the said premises or any part thereof shall not be redeemed or redeemable, nor shall the same or any part thereof be discharged from the powers, trusts, and authorities contained in the within-written indenture, nor shall the moneys to arise from the sale of the same, or which shall be received by virtue of the within-written indenture, be receivable by the said A.B., his heirs, executors, administrators, or assigns, until full payment and satisfaction shall be made unto the said C.D. and E.F. respectively, and their respective executors, administrators, or assigns, as well of the said sums of £ and £ respectively, and interest for the same respectively as aforesaid, as of the said sum of £ , and any and every further sum of money in which the said A.B. shall at any time or times hereafter become indebted to the said C.D. and E.F., or to either of them, with interest for the same respectively, at the rate of £ per cent. per annum, as aforesaid. AND THAT all the powers, trusts, and authorities contained in the within-written indenture shall extend and be applicable for the security, and obtaining payment thereof. AND the said A.B., for himself, his heirs, executors, and administrators, hereby COVENANTS with the said C.D. and E.F., their executors, and administrators, and also as distinct and other covenants, with each of them, and his respective executors, and administrators, that he, the said A.B., his heirs, executors, or administrators, will, on demand thereof, pay to the said C.D. and E.F., their executors, administrators, or assigns, in the proportions in which they are respectively interested therein [*or in equal moieties, or as the case may be*], the said sum of £ , together with interest at the rate from the

time and in manner aforesaid. AND THAT the said A.B., his heirs, executors, or administrators, will, on demand thereof, pay unto the said C.D. and E.F., respectively, and their respective executors, administrators, or assigns, any and every further sum of money in which the said A.B. shall at any time or times hereafter become indebted to them or either of them upon any account whatsoever, together with interest for the same at the rate aforesaid from the time or respective times on which the same may be advanced or become due. IN WITNESS, &c.

And further
sums.

270. *Post-Nuptial Settlement of a Life Policy, and Furniture for Benefit of Wife and Children.* **Precedent 270.**

THIS INDENTURE made, &c., BETWEEN A.B., of &c. [*husband*], of the first part, C.D., of &c. [*wife*], of the second part, and E.F. and G.H., of &c. [*trustees*], of the third part. WHEREAS by a policy of assurance bearing date, &c., and numbered the Company assured to the said A.B. the sum of £ to be paid to his executors, administrators, or assigns, within three calendar months after the decease of him, the said A.B., whensoever the same should happen, at or under the yearly premium of £ . AND WHEREAS the said A.B. is possessed of the several articles of furniture, plate, and other household goods and effects, now being in or about the dwelling house occupied by the said A.B., and part whereof is specified in the schedule hereunder written. AND WHEREAS the said A.B., in consideration of the natural love and affection which he bears to his said wife and children, is desirous of assigning the said policy of assurance, and the moneys thereby assured, and also his said household furniture and effects, upon and for the trusts, intents, and purposes hereinafter declared concerning the same. Now THIS

Parties.

Recital of
policy.

That husband
possessed of
certain fur-
niture.

And of his
desire to settle
same on wife
and children.

Witnesseth. INDENTURE WITNESSETH that for effectuating the afore-
Consideration. said desire, and for the considerations aforesaid, the
 said A.B. doth by these presents assign unto the said
Parcels. E.F. and G.H., Firstly, ALL that the said hereinbefore
 recited policy of assurance, and the said sum of £
 thereby assured, and all moneys, bonuses, benefits, and
 advantages to be had, recovered, or obtained, under or
 by virtue of the said policy. TOGETHER with full power
 and authority to ask, demand, sue for, recover, and
 receive and give effectual acquittances, releases, and
 discharges for the same; And secondly, ALL the house-
 hold furniture and effects of him, the said A.B., in the
 dwelling house now occupied by him, numbered
 in Street, , which, or the principal
 part of which, are specified in the schedule hereunder
 written. AND all the estate and interest of the said
Habendum. A.B. in the premises. To HOLD the said premises unto
 the said E.F. and G.H., their executors, administrators,
 and assigns, upon, and for the trusts, intents, and pur-
 poses hereinafter declared concerning the same, that is
Trusts of to say, AS to the said policy, moneys, and premises UPON
policy. TRUST that the said E.F. and G.H., or the survivor of
 them, his executors or administrators, or their or his
 assigns, or other the trustees or trustee for the time
 being of these presents (hereinafter called "the said
 trustees or trustee"), do and shall, when and so soon as
 the moneys which shall become payable under or by
 virtue of the said policy, shall be actually received, lay
 out and invest the same in or upon such stocks, funds,
 and securities, as are hereinafter mentioned in that
 behalf, And shall be possessed of the said investments,
 IN TRUST to pay the annual income arising therefrom unto
 the said C.D., during her life for her separate use, inde-
 pendently of any husband and of his debts, control, and
 engagements, and so that she shall not have power to
 dispose or deprive herself thereof by anticipation, and

her receipt alone shall be a sufficient discharge for the same, AND after the death of the said C.D. upon and for the trusts hereinafter declared concerning the investments to arise from the sale of the said household furniture and effects, AND AS to the said household furniture and effects, IN TRUST to permit the said C.D. to have the possession and enjoyment thereof during the joint lives of herself and of the said A.B. for her separate use independently of the said A.B., and of his debts, control, and engagements. AND from and after the death of either of them the said A.B. or C.D. IN TRUST to permit the survivor of them to have the possession or enjoyment thereof during his or her life. AND from and after the death of such survivor in trust that the trustees or trustee for the time being of these presents, do and shall sell the said furniture, effects, and premises, either by public auction or private treaty, and do and shall, by and out of the moneys which shall arise from such sale, pay the expenses incurred in and about the same, and shall stand possessed of the residue of the said moneys in trust, to invest the same in or upon such stocks, funds, or securities as are hereinafter mentioned in that behalf. AND do and shall be possessed of the said moneys, stocks, funds and securities IN TRUST for all the children, or any the child of the said A.B. and C.D., who, being sons or a son, shall attain the age of twenty-one years, or being daughters, or a daughter, shall attain that age, or marry under that age, and, if more than one, in equal shares. AND in the event of there being no such child, or children, of the said A.B. and C.D. IN TRUST for such person or persons, and generally in such manner as the survivor of them, the said A.B. and C.D., shall, by will, direct and appoint. AND the said A.B., for himself, his heirs, executors, and administrators, hereby COVENANTS with the said E.F. and G.H., their executors, administrators, and assigns, that he the said A.B. will not at any time hereafter do or

Trusts of
furniture.

Covenant
by husband
not to vitiate
policy.

To effect a
new policy if
vitiated.

To pay
premiums.

suffer any act or thing whereby the said policy of assurance may, or can be vitiated or become void or voidable, or whereby the said E.F. and G.H., their executors, administrators, or assigns, may or can be hindered from recovering or receiving the moneys respectively assured by the said policy, or any of them, and that in case the said policy, or any policy to be effected in lieu thereof, shall by any means become voidable, the said A.B. shall and will at his own cost and charges, forthwith procure the same to be restored or confirmed to the satisfaction of the said E.F. and G.H., their executors, administrators, or assigns. AND THAT in case the said policy, or any policy to be effected in lieu thereof, shall at any time be vitiated or rendered void, the said A.B. shall and will forthwith hereafter at his expense effect, or cause to be effected, a new policy or new policies of assurance on the life of the said A.B. in the name or names of the said trustees or trustee for a sum or sums not less in amount than the sum or sums assured by the policy or policies which shall have become vitiated or rendered void as aforesaid, and that the several trusts, powers, authorities, and provisoes herein declared concerning the hereinbefore-recited policy of assurance, and the moneys to become payable under or by virtue thereof, shall extend and apply to any such policy of assurance as may hereafter be effected under the covenants and provisoes hereinbefore contained. AND THAT the said A.B., his executors, and administrators, shall and will at all times hereafter well and truly pay, or cause to be paid, the annual premium or premiums, sum and sums of money as shall from time to time become payable in respect of the said policy hereby assigned, or any new policy or policies so to be effected as aforesaid, when and as the same respectively shall become payable, and shall deliver the receipts for such premiums to the said trustees or trustee. AND the said A.B. for himself, his heirs, executors, and

administrators, hereby further COVENANTS with the said E.F. and G.H., their executors and administrators, that the said A.B., his executors or administrators, shall and will within years next, after the date of these presents, purchase in the names or name of the said trustees or trustee, or otherwise effectually vest in them or him other and additional and suitable household furniture and effects of the value of £ at the least.

And to purchase additional furniture.

AND IT IS AGREED AND DECLARED that such trustees or trustee shall stand possessed of the same upon the trusts hereinbefore declared of and concerning the furniture, effects, and premises hereinbefore expressed to be hereby assigned. AND IT IS HEREBY AGREED AND DECLARED that the said trustees or trustee shall not be in any manner bound or concerned to interfere with the custody of any of the furniture or effects subject to the trusts aforesaid, or to see to the preservation thereof, or in any manner to intermeddle in relation thereto. PROVIDED ALWAYS, and

Declaration that such furniture shall be held on the trusts already declared. And that trustees not concerned to see to the preservation of the trust effects.

it is hereby declared that it shall be lawful for the said trustees or trustee, after the decease of the said C.D., to raise any part or parts not exceeding altogether one-half of the then expectant or presumptive share of any child of the said A.B. and C.D., under any of the trusts hereinbefore declared, and to pay and apply the same for his or her preferment, advancement, or benefit, as the said trustees or trustee shall think fit. AND IT IS ALSO AGREED

Power of advancement.

AND DECLARED that such trustees or trustee shall, after the death of the said C.D., apply the whole or such part as they or he shall think fit of the income of the share to which any such child shall for the time being be entitled in expectancy under any of the trusts aforesaid for or towards his or her maintenance or education.

And maintenance.

AND IT IS HEREBY AGREED AND DECLARED that the said trustees or trustee shall invest in their or his names or name the moneys hereinbefore directed to be invested in any of the public stocks or funds or Government

Trusts as to investments.

Declaration
that the trusts
receipts
shall be
effectual dis-
charges.

Power to
appoint new
trustees.

Proviso that
it shall not be
obligatory on
the trustees to
enforce the
purchase of
additional
furniture, &c.

securities of the United Kingdom or India, or upon freehold, copyhold, or leasehold securities in England or Wales, or upon the bonds, debentures, mortgages, or securities of any Corporation or public body in the United Kingdom; and may from time to time vary and transpose such stocks, funds, or securities into or for others of the same or a like nature, whenever such trustees or trustee shall think proper. AND IT IS HEREBY AGREED AND DECLARED that the receipt of the said trustees or trustee for any moneys paid, and for any stocks, funds, or securities transferred to them or him by virtue of these presents or in the execution of any of the trusts or powers hereof, shall effectually discharge the person or persons paying or transferring the same therefrom, and from being bound to see to the application or being answerable for the loss or misapplication thereof. AND IT IS HEREBY AGREED AND DECLARED that the power of appointing a new trustee or trustees hereof shall be exercisable by the said A.B. and C.D. during their joint lives and by the survivor of them during his or her life, and, after the death of such survivor, by the surviving or continuing trustees or trustee, or the acting executors or executor, administrators or administrator, of the last surviving and continuing trustee, or by the last retiring trustee; and on every or any such appointment the number of trustees may be augmented or reduced. PROVIDED LASTLY, and it is hereby agreed and declared that it shall not be obligatory on any of the said trustees or trustee to enforce any of the covenants hereinbefore contained in relation to the purchase of any additional furniture or effects by the said A.B., or in relation to the said policy, or to see that the same or any new policy is kept on foot, and that no omission or neglect in any of such matters by any of the said trustees or trustee shall be chargeable as a breach of trust, and that the said trustees or trustee, their or his executors or adminis-

trators, shall not be answerable for any of the said policies becoming void through any means whatsoever, or on account of the non-performance of any of the covenants herein contained or otherwise howsoever in respect of the premises.(a) IN WITNESS, &c.

THE SCHEDULE referred to.

(a) This deed will require registration and re-registration under "The Bills of Sale Act, 1878:" (*Fowler v. Foster*, 28 L. J. Q. B. 210, and *Ashton v. Blackshaw*, L. Rep. 9 Eq. 510.)

Appendix.

TABLE OF STAMP DUTIES, UNDER "THE STAMP ACT, 1870,"^(a) AND "THE STAMP DUTIES MANAGEMENT ACT, 1870."^(b) FOR USE WITH THE PRECEDENTS.

Adhesive Stamps.—The use of these stamps is compulsory for foreign bills of exchange, and promissory notes drawn or made, or purporting so to be out of the United Kingdom. For payment of the duty on the following documents it is optional whether adhesive or impressed stamps are used :

Agreement under hand.

**Agreement to let a furnished house for less than a year.*

**Lease of same.*

**Lease or tack of the whole or part of a dwelling house or tenement for any definite term less than a year, at a rent not exceeding the rate of £10 per annum.*

Contract Note on sale or purchase of shares.

Copy of Register of birth, baptism, death, or burial.

Charter Party.

Cost Book Mines, authority for transfer of shares.

Delivery Order.

Dock Warrant.

Draft or Order (inland) payable on demand.

Marine Policies executed abroad.

Notarial Acts and Protests.

Policy of Insurance—Life.

Policy of Insurance—Accident.

Policy of Insurance against loss or damage, or as indemnity for the same (not chargeable as life, fire, or sea insurance).

Proxy or voting paper.

Receipt.

(a) 33 & 34 Vict. c. 97.

(b) 33 & 34 Vict. c. 98.

The instruments to which an asterisk is prefixed, must be stamped at or before the execution thereof under a penalty of £5.

An adhesive stamp is required under a penalty of £10, to be cancelled by the person using the same, writing on or across such stamp, his name or initials, or the name or initials of his firm, together with the true date of his so writing, so that the stamp may be effectually cancelled, and rendered incapable of being used for any other instrument (a).

Adjudication Stamp.—The Commissioners may be required by any person to express their opinion with reference to any executed instrument upon the following questions :

(a) Whether it is chargeable with any duty :

(b) With what amount of duty it is chargeable.

If the Commissioners are of opinion that the instrument is not chargeable with any duty, it may be stamped with a particular stamp denoting that it is not chargeable with any duty.

If the Commissioners are of opinion that the instrument is chargeable with duty, they shall assess the duty with which it is in their opinion chargeable, and if or when the instrument is stamped, in accordance therewith, it may also be denoted as before; after which the sufficiency of the stamp cannot be questioned. Parties dissatisfied may, within twenty-one days after the date of such assessment, and on payment of duty in conformity therewith appeal to the Court of Exchequer. On applying for the opinion of the Commissioners, an abstract of the instrument should be sent. The fee of 10s. hitherto payable, is abolished.

Agreement, accompanied with a deposit.—See “Mortgage.”

Agreement for a lease or tack, or with respect to the letting of any lands, for any term (b) not exceeding thirty-five years, is to be charged with the same duty as if it were an actual lease, made for the term and consideration mentioned in the agreement.

A lease or tack made subsequently to, and in conformity with, such an agreement duly stamped, is to be charged with the duty of sixpence only.

(a) If the stamp however, appear to have been duly cancelled, the presumption is that it was so cancelled: (*Bradlaugh v. De Rin*, L. Rep., C. P., 286.)

(b) Formerly, if the term exceeded seven years, a 6d. agreement stamp was sufficient, unless the instrument operated to create a yearly tenancy, as well as an agreement: (*Hayes's Concise Conveyancer*, 3rd edit., p. 646, note (d).) Also an agreement for a lease required heretofore, the same duty as a lease if it contained words of present demise, unless it also contained a clause binding the parties respectively to grant and accept a lease: (See *Phillips v. Hartley*, 3 C. & P. 121.)

Agreement or any **Memorandum of an Agreement**, made in England or Ireland under hand only,^(a) or made in Scotland without any clause of registration, and not otherwise specifically charged with any duty, whether the same be only evidence of a contract, or obligatory upon the parties from its being a written instrument £0 0 6

Exemptions.—(1.) Agreement or memorandum the matter whereof is not of the value of £5. (2.) Agreement or memorandum for the hire of any labourer, artificer, manufacturer, or menial servant. (3.) Agreement, letter, or memorandum made for or relating to the sale of any goods, wares, or merchandise. (4.) Agreement or memorandum made between the masters and mariners of any ship or vessel for wages on any voyage coast-wise from port to port in the United Kingdom.

The duty may be denoted by an adhesive stamp, which is to be cancelled by the person by whom the agreement is first executed.

Executed agreements must be stamped within fourteen days of date, and in the country the duty and postage may be paid at the local stamp office during that period whence it will be transmitted to the head office with the document to be stamped.

After the expiration of fourteen days the penalty of £10 will be incurred.

Apprenticeship, where there is no premium or consideration £0 2 6

In any other case, for every £5, and also for any fractional part of £5, of the amount or value of the premium or consideration £0 5 0

Articles of Marriage.—See “Settlement.”

Articles of Partnership.—See “Agreement,” “Deed.”

Assignment or Assignment by way of security, or of any security.—See “Mortgage,” &c.

Assignment upon a sale or otherwise.—See “Conveyance.”

Assignment of any kind whatsoever not described ... £0 10 0

Attested Copy or Extract of or from (1.) An instrument chargeable with any duty. (2.) An original will, testament, or codicil. (3.) The probate or probate copy of a will or codicil. (4.) Any letters of administration or any confirmation of a testament. (5.)

(a) An agreement under seal cannot be given in evidence unless stamped with a deed stamp: (*Robinson v. Drybrough*, 6 T. R. 31); *Es. gr.* Precedent 38, ante, p. 66. An agreement to take a debt by instalments is liable to stamp duty: (*Remon v. Hayman*, 2 A. & E. 666.)

Any public register (*except any register of births, baptisms, marriages, deaths, or burials*). (6.) The books, rolls, or records of any court. In the case of an instrument chargeable with any duty not amounting to one shilling. *The same duty as such instrument.*

In any other case £0 1 0

Exemption.—Copy or extract of any law proceedings.

An attested copy may be stamped at any time within fourteen days after the date of the attestation.

Award—in England or Ireland, and award or decreet arbitral in Scotland, where the amount or value of the matter in dispute does not exceed £5 £0 0 3

Exceeds £5 and does not exceed £10 0 0 6

„ 10 „ „ 20 0 1 0

„ 20 „ „ 30 0 1 6

„ 30 „ „ 40 0 2 0

„ 40 „ „ 50 0 2 6

„ 50 „ „ 100 0 5 0

„ 100 „ „ 200 0 10 0

„ 200 „ „ 500 0 15 0

„ 500 „ „ 750 1 0 0

„ 750 „ „ 1000 1 5 0

And where it exceeds £1000, and in any other case not above provided for 1 15 0

Bill of Exchange—

Payable on demand 0 0 1

This duty may be denoted by an adhesive stamp, to be cancelled by the person signing the bill before he delivers it out of his hands.

The term “Bill of Exchange payable on demand,” has a very wide signification, and includes ordinary cheques and orders for payment of money out of a particular fund.

Of any other kind whatsoever (*except a bank note*) and promissory note of any kind whatsoever (*except a bank note*)—drawn, or expressed to be payable, or actually paid, or endorsed, or in any manner negotiated in the United Kingdom:

Where the amount or value of the money for which the bill or note is drawn or made does not exceed

£5 0 0 1

Exceeds £5 and does not exceed £10 0 0 2

„ 10 „ „ 25 0 0 3

Exceeds £25 and does not exceed £50	£0	0	6
„ 50 „ „ 75	0	0	9
„ 75 „ „ 100	0	1	0
„ 100—			
For every £100, and also for any fractional part of £100, of such amount or value	0	1	0

Bill of Sale, absolute.—Same duty as on a conveyance.

Bill of Sale, by Way of Security ... { Same duty as on a bond
or mortgage.

A copy of a bill of sale is not to be filed in any court unless the original, duly stamped, is produced to the proper officer. But see *Bellamy v. Saull* (8 L. T. Rep. N. S. 534).

Bond.—See “Mortgage.”

Contract.—See “Agreement.”

Conveyance or Transfer on sale of any property where the amount or value of the consideration for the sale does not exceed £5				£0	0	6
Exceeds £5 and does not exceed £10				0	1	0
„ 10 „ 15				0	1	6
„ 15 „ 20				0	2	0
„ 20 „ 25				0	2	6
„ 25 „ 50				0	5	0
„ 50 „ 75				0	7	6
„ 75 „ 100				0	10	0
„ 100 „ 125				0	12	6
„ 125 „ 150				0	15	0
„ 150 „ 175				0	17	6
„ 175 „ 200				1	0	0
„ 200 „ 225				1	2	6
„ 225 „ 250				1	5	0
„ 250 „ 275				1	7	6
„ 275 „ 300				1	10	0
„ 300, for every £50, and also for any fractional part of £60 of such amount or value				0	5	0

Conveyance of Equity of Redemption.—Where any property is conveyed to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt money, or stock is to be deemed the whole or part, as the

case may be, of the consideration in respect whereof the conveyance is chargeable with *ad. val.* duty.

Conveyance of any kind not hereinbefore described ... £0 10 0

Copy or extract (certified) of or from any register of births, baptisms, marriages, deaths, or burials ... £0 0 1

This duty is to be paid by the person requiring the copy or extract, and may be adhesive or impressed; if adhesive, it is to be cancelled by the person by whom it is signed before he delivers the same out of his hands, custody, or power.

Counterpart.—See “Duplicate.”

Declaration made under the provisions of 5 & 6 Will. 4, c. 62 ... £0 2 6

Exemption (*inter alia*).—A declaration made upon a requisition of the Commissioners of any public board of revenue, or any of the officers acting under them, or required by law, and made before any justice of the peace.

Declaration of any use or trust of, or concerning any property by any writing not being a deed or will, or an instrument chargeable with *ad val.* duty as a settlement ... £0 10 0

Deed of any kind whatsoever not described ... £0 10 0
In lieu of 35s.

Denoting Stamp.—Where the duty with which an instrument is chargeable depends in any manner upon the duty paid upon another instrument, the payment of such last-mentioned duty shall, if application be made to the Commissioners for that purpose, and on production of both the instruments, be denoted in such manner as the Commissioners think fit upon such first-mentioned instrument. Counterparts of leases or instruments chargeable as leases do not require Denoting Stamps unless executed by or on behalf of any lessor or grantor.

Deposit of Title-Deeds.—See “Mortgage,” and Note (a) to Precedent 83, *ante*, p. 124.

Dissolution of Partnership, Deed of.—Where no payment is made to the retiring partner ... £0 10 0

Where any sum paid and assets of partnership are assigned to the remaining partners in consideration of such payment. } Same duty as on a conveyance. See Note (a) to Precedent 139, *ante*, p. 208.

Duplicate or Counterpart of any instrument chargeable with any duty.

Where such duty does not amount to five } Same duty as the original
shillings, } instrument.

In any other case £0 5 0

A duplicate or counterpart (except the counterpart of a lease, not being executed by or on behalf of any lessor or grantor), is not to be deemed duly stamped, unless it is stamped as an original instrument, or unless it appears by some stamp impressed thereon that the full and proper duty has been paid upon the original instrument.

Equitable Mortgage.—See “Mortgage,” and Note (a) to Precedent 80, *ante*, p. 120.

Further Charge.—See “Mortgage.”

Guaranty.—See “Agreement,” and Note (c) to Precedent 88, *ante*, p. 135.

Lease or Tack—

(1) For any definite term less than a year :

(a) Of any dwelling house or tenement, or part of a dwelling house or tenement, at a rent not exceeding the rate of £10 per annum... .. £0 0 1

(b) Of any furnished dwelling house or apartments, where the rent for such term exceeds £25 £0 2 6

The duty upon these or upon the duplicate or counterpart may be denoted by an adhesive stamp, which is to be cancelled by the person by whom the instrument is first executed. They cannot be stamped after execution. Penalty £5.

(c) Of any lands, tenements, or heritable subjects except or otherwise than as aforesaid. *Same duty as a lease for a year at the rent reserved for the definite term.*

(2) For any other definite term or for any indefinite term.

Of any lands, tenements, or heritable subjects.

Where the consideration, or any part of the consideration, moving either to the lessor or to any other person, consists of any money, stock, or security :

In respect of such consideration { Same duty as a conveyance on a sale for the same consideration.

Where the consideration or any part of the consideration is any rent :

In respect of such consideration :

If the rent (whether reserved as a yearly rent or otherwise) is at a rate or average rate :

	If the term is definite, and does not exceed 35 years, or is indefinite.	If the term being definite exceeds 35 years, but does not exceed 100 years.		If the term being definite exceeds 100 years.	
		s.	d.	£	s. d.
Not exceeding £5 per annum	0	6	0	0	6 0
Exceeding £5 and not exceeding £10	1	0	0	6	0 12 0
" 10 " " 15	1	6	0	9	0 18 0
" 15 " " 20	2	0	0	12	0 1 4 0
" 20 " " 25	2	6	0	15	0 1 10 0
" 25 " " 50	5	0	1	10	0 3 0 0
" 50 " " 75	7	6	2	5	0 4 10 0
" 75 " " 100	10	0	3	0	0 6 0 0
" 100 " " "					
For every full sum of £50, and also for any fractional part of £50 thereof ...	5	0	1	10	0 3 0 0

Lease, assignment or surrender of, on a sale { Same duty as on a conveyance.

Lease, assignment or surrender of by way { Same duty as on a bond of mortgage or mortgage.

Lease of any other kind whatsoever not hereinbefore described £0 10 0

Lease, Counterpart of.—See "Duplicate."

Where the consideration consists of any produce or other goods, the value is to be deemed a consideration in respect of which the lease is chargeable with duty.

A lease is not to be charged with duty in respect of a penal rent, or by reason of being made in consideration of the surrender of an existing lease.

No lease made for any consideration in respect whereof it is chargeable with *ad val.* duty, and in further consideration, either of a covenant by the lessee to make, or of his having previously made, any substantial improvement of or addition to the property demised to him, or of any covenant relating to the matter of the lease is to be charged with any duty in respect of such further consideration.

No lease for a life or lives not exceeding three, or for a term of years determinable with a life or lives not exceeding three, and no lease

for a term absolute not exceeding twenty-one years, granted by an ecclesiastical corporation, is to be charged with any higher duty than thirty-five shillings.

Letter of Licence from creditors to a debtor £0 10 0

Licence to Assign.—See “Agreement” and “Deed.” (a)

Mortgage and Bond, of any kind.

(1) Being the only or principal security for the payment or repayment of money not exceeding £25		£0 0 8
Exceeding £25 and not exceeding £50		0 1 3
“ 50	“ 100	0 2 6
“ 100	“ 150	0 3 9
“ 150	“ 200	0 5 0
“ 200	“ 250	0 6 3
“ 250	“ 300	0 7 6
“ 300		

For every £100, and also for any fractional part of £100, of such amount £0 2 6

(2) Being a collateral, or auxiliary, or additional, or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped:

For every £100, and also for any fractional part of £100, of the amount secured £0 0 6

Exemption (inter alia).—A mortgage by a member of a benefit building society for securing the repayment to the society of not exceeding £500.

Power of Attorney £0 10 0
(And see Note (a) to Precedent 148, *ante*, p. 222.)

Progressive Duty.—Abolished.

Re-Assignment.—See “Re-conveyance.”

Receipt given for or upon the payment of money amounting to £2 or upwards £0 0 1

Receipts cannot be stamped after a month from date, nor within that period without a penalty of £5 if within fourteen days, or £10 if beyond.

A receipt given abroad may be stamped within two months after its first arrival in the United Kingdom.

(a) As regards stamping licences to a lessor to assign, it would appear that a common deed stamp is required if under hand and seal; and an agreement stamp, if under hand only, and they contain any proviso or restriction; otherwise no stamp appears to be necessary: (2 Crabb's Conv. 911).

Re-Conveyance.—For every £100, and also for any fractional part of £100 of the total amount or value of the money at any time secured £0 0 6

Release or Renunciation of any property or of any right or interest in any property upon a sale.—See “Conveyance.”

By way of security.—See “Mortgage.”

In any other case... .. £0 10 0

Settlement.—Any instrument, whether voluntary or upon valuable consideration, other than a *bond fide* pecuniary consideration, whereby any definite and certain principal sum of money (whether charged or chargeable on lands or not, or to be laid out in the purchase of lands, or not), or any definite and certain amount of stock, or any security, is settled or agreed to be settled in any manner whatsoever:—

For every £100, and also for any fractional part of £100, of the amount settled £0 5 0

Exemption.—Instrument of appointment relating to any property in favour of persons specially named as the objects of a power of appointment, created by a previous settlement duly stamped, or by will, where duty has been paid.

Where, in the case of a policy of insurance, no provision is made for keeping up the policy, the *ad val.* duty is to be charged only on the value of the policy at the date of the instrument. If in any such case the instrument contains a statement of such value and is stamped in accordance with such statement, it is, so far as regards such policy, to be deemed duly stamped, unless it is shown that such statement is untrue.

Where any money, stock, or security, is settled by a person who has only a reversionary interest therein, and the instrument contains a covenant by the person entitled in possession to the interest or dividends of such money, &c., for the payment during the continuance of such possession, of any annuity or yearly sum not exceeding interest at the rate of four pounds per centum per annum upon the amount, such instrument shall not be charged with any duty in respect of such covenant.

Where several instruments are executed for effecting the settlement of the same property, and the *ad val.* duty chargeable in respect of the settlement of such property exceeds ten shillings, one only of such instruments is to be charged with the *ad val.* duty.

Where a settlement is made in pursuance of any previous agreement upon which any *ad val.* settlement duty exceeding ten shillings has been paid in respect of the same property, such settlement is not to be charged with any *ad val.* settlement duty.

In each of the aforesaid cases, the instruments not chargeable with *ad val.* duty are to be charged with the duty of ten shillings.

Spoiled Stamps.—Application for allowance must be made at the Allowance Office, Somerset House, on Tuesdays and Thursdays from 12 to 2, and on Saturdays from 10 to 12. Country claims must be left, with an affidavit, on Tuesdays and Thursdays before 12 or after 2, and on Saturdays from 12 to 4; other days from 10 to 4. The allowance ticket may be had on the following Monday. The hours of attendance at No. 2, Great Winchester-street Buildings, London Wall, for the allowance of Sea Policy and General Spoiled Stamps are from 11 to 2 o'clock on Mondays, Wednesdays, and Fridays. All applications must be made within six months of stamps being spoiled, or first date of execution; and affidavit (forms provided at Somerset House) of the stamps being spoiled must be made before the Commissioners or a Chancery Commissioner; *i.e.*, a Commissioner to administer oaths in the Supreme Court.

Stamping Executed Deeds.—All unstamped or insufficiently stamped deeds (with certain exceptions, and where stamping after execution is absolutely prohibited), may be stamped within two months from date free of penalty; and also after execution, on payment of the unpaid duty and a penalty of £10; also a further penalty where the unpaid duty exceeds £10 of interest on such duty, at the rate of £5 per cent. per annum from the day upon which the deed was first executed, up to the time when such interest is equal in amount to the unpaid duty. But the Commissioners of Stamps are empowered at any time *within twelve months of first execution* to remit all or any part of the penalty, when it is shown to their satisfaction that the omission occurred by accident, mistake, inadvertency, or urgent necessity, and without any intention to defraud the revenue, or to delay or evade payment of the duty. In such case special application must be made to the Commissioners by memorial, stating the facts, accompanied by a statutory declaration *which it is not necessary to stamp*. Instruments executed abroad may be stamped, without penalty, within two months after arrival in England. In all cases of alteration of date, whether by erasure or otherwise, a statutory declaration must be presented, stating the circumstances. See Note (b) to Precedent 106, *ante*, p. 171.

Surrender of Lease.—See “Lease.”

Surrender not chargeable with duty as a conveyance on sale or mortgage... .. £0 10 0

Undertaking.—See “Agreement.”

Unstamped Instruments.—Upon the production of an instrument chargeable with any duty as evidence in any court of civil judicature in any part of the United Kingdom, the officer whose duty it is to read the instrument shall call the attention of the judge to any omission or insufficiency of the stamp thereon, and if the instrument is one which may legally be stamped after execution, it may, on payment to the officer of the unpaid duty, and the penalty payable by law on stamping the same as aforesaid, and of a further sum of £1, be received in evidence, saving all just exceptions on other grounds.

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* * *The large type refers to the Precedents, and the italic to the Notes and Appendix.*

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PUBLISHED EVERY FRIDAY MORNING.

LEGISLATION CONTINUES TO BRING ABOUT GREAT CHANGES in the Practice of the Law, and the precise effect of such changes is at the outset usually a matter of much uncertainty.

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The reform of the Judicature, and the consequent revolution in the Practice of the Law, as well as the establishment of District Registries throughout the country, render it essential to every Practitioner that he should have a guide, which, from week to week, not only instructs him in the new law, and as to what extent it modifies the old law, but also keeps him informed of the decisions of the Courts upon the new Rules of Practice, and upon the many lesser changes that must for a long time follow the radical changes already accomplished.

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